

bulletin





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AN INTERNATIONAL BILL OF HUMAN RIGHTS

Article by James P. Hendrick

The United Nations Commission on Human Rights is charged with the task of preparing an international bill of rights. The task is complex. Its goal is definite—the preparation of a document. Its concept is original—no such work has heretofore been undertaken.

Background Work on an International Bill

In 1929 the Institute of International Law met at Briarcliff, New York, to formulate what is generally believed to be the first draft of such a bill. It contained six short articles and covered the following rights: right to life, liberty, property; right to religious practice; right to use of any language; freedom from discrimination on grounds of race, sex, language, or religion; right to nationality. No effort was made to pursue the matter and the subject lay dormant for over a decade. In 1941 the President of the United States announced the four freedoms as objectives of international importance. A few days after the United States had declared war, the words "human rights" were used for the first time in a United Nations document.¹ At Dumbarton Oaks provi-

¹ See the U.N. declaration of Jan. 1, 1942, which stated that the signatory governments were "convinced that complete victory over their enemies is essential to . . . preserve human rights . . ."

² See Dumbarton Oaks Proposals for a General International Organization (1944) chap. 9, sec. A, par. 1; and resolution XL of *Inter-American Conference on Problems of War and Peace*.

³ U.N. Charter: preamble (2d par.); art. 1, par. 3; art. 13, par. 1 (b); art. 55 (c); art. 62, par. 2; art. 68; art. 76 (c). The background on this subject, with particular reference to the responsibilities of nongovernmental organi-

sation was made for promoting respect for human rights and fundamental freedoms, and later at the Inter-American Conference on Problems of War and Peace, held at Mexico City in 1945, resolutions were passed recognizing the essential importance of human rights in the Inter-American System.² Plans were made for an inter-American declaration, which is to be considered at the forthcoming Ninth International Conference of American States, scheduled to convene in Bogotá, Colombia. Finally, in the United Nations Charter as drafted at San Francisco, reference was made no less than seven times to human rights, and provision was specifically made for the setting up of a Commission on Human Rights.³

First Session of the Economic and Social Council

When the Economic and Social Council assembled for its first meeting, in London in January 1946, for the purpose, among others, of constituting a Commission on Human Rights, two draft declarations of rights were presented to it, one by Panama⁴ and the other by Cuba.⁵ Later Chile presented a draft declaration to the Commission on Human Rights⁶ and since then a substantial

zations and individuals in the United States for the creation of the Commission on Human Rights and work on an international bill, is given in an article on "The Charter and the Promotion of Human Rights" by Alice M. McDiarmid, *BULLETIN* of Feb. 10, 1946, p. 210. See also *Yearbook of the United Nations*, 1946-47, p. 523.

⁴ U.N. docs. E/HR/3, Apr. 26, 1946, or A/148, Oct. 24, 1946. The declaration was written under the auspices of the American Law Institute.

⁵ U.N. doc. E/HR/1, Apr. 22, 1946.

⁶ U.N. doc. E/CN.4/2, Jan. 8, 1947, prepared by the Inter-American Juridical Committee, working under the mandate of the Mexico City resolution.

number of other bills have been presented formally or informally.⁷

The Economic and Social Council set up the Human Rights Commission on February 16, 1946. Nine members were elected to serve as a nuclear group.⁸ The Commission's terms of reference, as approved by the Economic and Social Council, included "work . . . directed towards submitting proposals, recommendations and reports to the Council regarding . . . an international bill of rights".⁹

Nuclear Commission Session

The nuclear commission met at Hunter College, New York, from April 29 to May 20, 1946. Beset by many difficulties,¹⁰ the nuclear commission

⁷Included among the bills which have been prepared are the following: International Bill of Rights, proposal submitted by the American Federation of Labor (E/Ct. 2/2, Aug. 20, 1946); draft General Assembly resolution submitted by India (U.N. doc. E/CN 4/11, Jan. 31, 1947); Draft Charter of International Human Rights and Duties submitted by Ecuador (U.N. doc. A/341, Aug. 21, 1947); Report of the UNESCO Committee on the Philosophic Principles of the Rights of Man (UNESCO/Phil/10, Paris, July 31, 1947); Draft International Bill of Human Rights, prepared by the Committee on Human Rights, Commission to Study the Organization of Peace; National Catholic Welfare Conference—A Declaration of Rights; Declaration of Human Rights, submitted by the American Jewish Committee, January 1945; Draft of the International Bill of Rights, by the American Association for the United Nations and the American Jewish Conference; Declaration of the Rights of Man, London *Daily Herald*, Apr. 20, 1940; Enumeration of Subjects for Consideration as to an International Bill of Rights, by the American Bar Association; A charter for the United Nations—The Rights of Every Man, recommended by *Free World*; Declaration of the International Rights and Duties of the Individual, by Gustavo Gutierrez; An International Bill of the Rights of Man, by H. Lauterpacht, Columbia University Press, New York; International Bill of Rights; Principles of the Rights and Duties of Individuals, by Irving A. Isaacs; International Bill of Rights, suggested by Rollin McNitt; An International Bill of Rights, by Rev. Wilfred Parsons, S.J.; Declaration of the Rights of Man by H. G. Wells; National Resources Planning Board: A New Bill of Rights. See also U.N. doc. E/600, Dec. 17, 1947, p. 8, par. 28, referring to communications concerning human rights from writers whose identity may not (under Economic and Social Council ruling) be divulged.

⁸The members of the nuclear commission were chosen to serve as individuals rather than as government representatives. Except for the U.S.S.R. and Yugoslav members, they were elected by name by the Economic and Social Council at its first session. The membership of

nonetheless produced a report which laid the foundation for the work of the permanent Commission on Human Rights.¹¹ In addition it recommended provisions for implementation which prompted the Economic and Social Council to consider that "the purpose of the United Nations with regard to the promotion and observance of human rights, as defined in the Charter of the United Nations, can only be fulfilled if provisions are made for implementation of human rights and of an international bill of rights", and to request the Commission to submit suggestions regarding implementation.¹²

First Session of the Full Commission

The full Commission on Human Rights was elected by the Economic and Social Council at its

the Commission at its first and only session was as follows: chairman, Mrs. Franklin D. Roosevelt (U.S.); vice chairman, René Cassin (France); rapporteur, K. C. Neogi (India). Other members were: Paal Borg (Norway), Alexander Borisov (U.S.S.R.), Dusan Brkish (Yugoslavia), Fernand Dehousse (Belgium), Victor Haya de la Torre (Peru), C. L. Hsia (China).

⁹*U.N. Journal of the Economic and Social Council*, no. 12, p. 124.

¹⁰The meetings were held in a reading room in Hunter College. Three tables were joined in U-shape around which the delegates sat. The public sat on wooden benches which had been moved in for the occasion. There was no amplifying system. Three members were unable to attend—Messrs. Borg, Dehousse, and Haya de la Torre. One of the six persons present was replaced a week before adjournment by a substitute who explained that his predecessor had actually had no authority to act and who refused to be bound by his predecessor's votes. At one time a new interpreter broke down completely after the first few words of translating a rather lengthy speech delivered by the French member, and the situation was saved by the Chairman (Mrs. Roosevelt) completing the translation and acting as interpreter until a substitute could be found.

¹¹The nuclear commission recommended that the full Commission should draft an international bill of rights "as soon as possible". (U.N. doc. E/38 Rev. 1, May 21, 1946, p. 6, resolution B, 1.) This recommendation was neither approved nor disapproved by the Economic and Social Council. However, at the first session, second part, of the General Assembly a resolution was passed transmitting the draft declaration presented by Panama to the Economic and Social Council for reference to the Commission on Human Rights "for consideration by the Commission in its preparation of an international bill of rights" (General Assembly resolution 43 (1), first session, second part).

¹²U.N. docs. E/56/Rev. 2, July 1, 1946, p. 3, and E/38/Rev. 1, May 21, 1946, p. 7.

second session in June 1946.¹³ The full Commission's first session was held from January 27 to February 8, 1947, at Lake Success. Its task was clearly recognized—to prepare an International Bill of Rights. Nonetheless the approach of the members was cautious. General statements were made on the importance of setting forth human rights in an international document. The only indication of a fundamental difference of opinion arose in connection with a speech delivered by the Yugoslav member, Dr. Ribnikar, stating that new economic conditions in the twentieth century had given birth to a collective spirit; that personal freedom could be obtained only through perfect harmony between the individual and the community, and that the social ideal lay in the interests of society and of the individual being identical.¹⁴ The speech was criticized by another member who stated that today man had no need for protection against kings or dictators, but rather against a new form of tyranny: that exercised by the masses and by the state.¹⁵

Following the general discussion the secretariat prepared a list of human rights based on various bills which had been prepared and considered. It soon became obvious that effective drafting could not be accomplished at this meeting by the full Commission. The United States member there-

¹³ Its membership was as follows for the first session: chairman, Mrs. Franklin D. Roosevelt (U.S.); vice chairman, P. C. Chang (China); rapporteur, Charles Malik (Lebanon); other members present at the session were William R. Hodgson (Australia); T. Kaminsky (Byelorussian Soviet Socialist Republic); F. Nieto del Rio (Chile); Osman Ebeid (Egypt); Mrs. Hansa Mehta (India); Ghassame Ghani (Iran); Carlos P. Romulo (Philippine Republic); Charles Dukes (United Kingdom); V. F. Teplakov (U.S.S.R.); Jose A. Mora (Uruguay); V. Ribnikar (Yugoslavia). The following members were unable to attend: Fernand Dehousse (Belgium); Ricardo J. Alfaro (Panama); G. D. Stadnik (Ukrainian Soviet Socialist Republic); the first two were represented respectively by Roland Lebeau and German Gil Guardia, both of whom participated without vote. In keeping with a compromise worked out by the Economic and Social Council for all commissions, the individuals serving on the Commission were chosen in consultation with the U.N. Secretary-General so that a well-balanced group could be assured; the members served, however, as government representatives in that they were (unlike the case of nuclear commission members) subject to instructions from their governments.

upon pressed strongly for the adoption of her suggestion¹⁶ that a working group should prepare an initial draft, to be submitted to the second session of the Commission. This suggestion was accepted and the Commission adjourned, having, in addition to the work on the bill, established a Subcommission on Freedom of Information and of the Press and a Subcommission on Prevention of Discrimination and Protection of Minorities.

Definitive Plan for Drafting of the Bill

The Economic and Social Council considered the Commission's report and an eight-point program was adopted for the drafting of a bill envisaging (1) secretariat preparations; (2) consideration by the Human Rights Drafting Committee; (3) consideration by the Human Rights Commission; (4) submission for comment to all member nations; (5) reconsideration by the Drafting Committee; (6) reconsideration by the Commission; (7) consideration by the Economic and Social Council; and (8) consideration by the General Assembly.¹⁷ The first four steps of this program have now been taken.

First Session of the Drafting Committee

The Human Rights Drafting Committee convened on June 9, 1947.¹⁸ Before it was a secre-

¹⁴ U.N. doc. E/CN.4/SR8, Jan. 13, 1947, p. 4.

¹⁵ Dr. Malik of Lebanon (U.N. doc. E/CN.4/SR9, Feb. 1, 1947, p. 3). Miss Sender, Representative of the American Federation of Labor, whose draft declaration had been specifically criticized by Dr. Ribnikar, stated that Dr. Ribnikar had placed greater importance upon common interest than that of the individual, and had considered the idea of individual liberty obsolete. The American Federation of Labor considered that individual liberty was perfectly compatible with the interests of the community. (U.N. doc. E/CN.4/SR8, Jan. 31, 1947, p. 5).

¹⁶ U.N. doc. E/CN.4/4, Jan. 28, 1947.

¹⁷ Resolution 46 (IV), fourth session of the Economic and Social Council. The first session of the eight-member Human Rights Drafting Committee was held in June 1947; the second session of the Human Rights Commission, in December 1947. The Commission's report was submitted to member nations for comment in January 1948. The second session of the Human Rights Drafting Committee is scheduled for May 1948; the third session of the Commission for May 1948; the seventh session of the Economic and Social Council, for July 1948; and the third session of the General Assembly for September 1948.

secretariat outline of a bill with annotation to constitutions of member states—a document of over 400 pages.¹⁹ The secretariat outline contained 48 articles. It was designed to cover most of the rights commonly contained in constitutions of member states or in drafts of international bills of rights. The United States, accepting the secretariat outline as a basis for discussion, filed a memorandum suggesting amendments.²⁰ Other members made suggestions from the floor. The difficulty of handling a detailed task of drafting with eight members in formal session became evident. A subcommittee was appointed; thereafter the subcommittee designated one individual—Professor Cassin of France—to prepare the initial redraft. Professor Cassin's redraft contained 46 articles.²¹ Subsequent redrafting reduced the Declaration to 36 articles.²² The Declaration did not purport to be legally binding.

The United Kingdom, however, had filed with the Drafting Committee a proposed covenant (convention)²³ on human rights which set forth in the form of a treaty obligation certain of those civil rights which are presently recognized in the local laws of "civilized nations".²⁴

This document, when formally ratified by states, would impose a definite legal obligation. It would,

¹⁹ Membership of the Human Rights Drafting Committee was as follows: chairman, Mrs. Franklin D. Roosevelt; vice chairman, P. C. Chang; rapporteur, Charles Malik; other members were W. R. Hodgson (Australia); H. Santa Cruz (Chile); René Cassin (France); V. Korotkiy (U.S.S.R.); Geoffrey Wilson (U.K.).

²⁰ U.N. doc. E/CN.4/AC.1/3/Add.1, June 2, 1947.

²¹ U.N. doc. E/CN.4/AC.1/8, June 11, 1947.

²² U.N. doc. E/CN.4/21, annex D, July 1, 1947.

²³ *Ibid.*, annex F. The substance of these articles is summarized in *Concerning Freedom of Information*, Department of State publication 2977, p. 12.

²⁴ The term "covenant" is used in this article in lieu of the more ordinary terms "convention" or "treaty", in view of a decision to this effect reached by the Human Rights Commission at its second session (U.N. doc. E/600, Dec. 17, 1947, p. 6, par. 18). No distinction has been made by the Commission between the three terms, which have been used by its members to designate a legally binding document, to be ratified by states in accordance with their constitutional processes. The United Kingdom wished to use the term "bill". Other members objected to its use in lieu of "covenant" on the ground that the word could not be adequately translated into any other working language. (The French translation is *charte*, which also means "charter".) They were, however, willing to use the word "bill" to cover both the Declaration and Covenant. Since the decision on terminology was not reached until

therefore, be an entirely different type of document from a declaration, which would merely require a General Assembly vote and would impose only a moral obligation.

The Committee discussed at some length the advisability of drafting a covenant in lieu of or in addition to a declaration at this time. It was eventually decided to draft substantive articles of the covenant; but since little time was available for detailed consideration, the articles proposed by the United Kingdom were tentatively accepted by the Committee virtually without change.²⁵ At the same time it was decided that the final two articles of the secretariat declaration, which in effect purported to make the declaration a legally binding document, should not be included in the Drafting Committee's declaration.²⁶

The Drafting Committee, therefore, completed a declaration (without preamble) and substantive articles of a covenant, which were submitted to the second session of the Commission, held in Geneva, December 1, 1947.

Second Session of the Human Rights Commission

The second session²⁷ of the Human Rights Commission started with a procedural question: should

close to the end of the Commission's second session, the report of the second session is not consistent in using "covenant" in place of "convention".

²⁵ U.N. doc. E/CN.4/21, annex B, July 1, 1947. Reference to "civilized nations" is made *ibid.*, p. 29, annex B, 1.

²⁶ *Ibid.*, annex G. The substance of these articles is summarized in *Concerning Freedom of Information*, Department of State publication 2977, p. 12.

²⁷ Arts. 47 and 48 of the secretariat declaration (*ibid.*, annex A), provided that it was the duty of each member to respect the rights enumerated; that these rights should be deemed fundamental principles of international law and of national law of each member state, and their violation deemed a matter of international concern.

²⁸ Eight members who had attended the first session attended the second as well. The representatives or alternates who attended the second session and had not attended the first session were as follows: Fernand Dehousse, Belgium (representative); A. S. Stepanenko, Byelorussian Soviet Socialist Republic (representative replacing T. Kaminsky); E. Cruz-Coke, Chile (alternate); C. H. Wu, China (alternate); Omar Loutfi, Egypt (alternate); A. G. Pourevaly, Iran (alternate); M. Amado, Panama (alternate); M. Klekovkin, Ukrainian Soviet Socialist Republic (representative replacing G. D. Svačnik); A. E. Bogomolov, U.S.S.R. (representative replacing V. F. Teplakov); J. J. Carbajal Victorica, Uruguay (alternate).

priority be given to the preparation of (1) a declaration, (2) substantive articles for a covenant, or (3) measures of implementation?²⁸ The obvious compromise, which the Commission in due course decided to make, was to produce at the same time papers on all three points. The Commission was split into working groups of substantially equal size²⁹ which were to report to the full Commission in time for the equivalent of one full day to be spent on each topic.

DECLARATION

The Declaration as approved by the Commission contains 33 articles.³⁰

Substantive Rights.

The substantive rights set forth in the Declaration may be divided into three classes—civil, social and economic, and miscellaneous.

²⁸ Several members felt that a covenant, being a document of the most intricate and technical nature, could not possibly be worked out in satisfactory form in a series of meetings lasting less than three weeks; that this time would be best spent in completing a well drafted, thoroughly thought-through declaration. This was the position taken by both the U.S. and the U.S.S.R. at the start of the session. Others expressed the view that the definite mandate of the Commission was to produce a "bill"; that a declaration, which would have at most a morally binding force, could under no possible interpretation be considered a "bill", and that to finish the second session of the Commission without a covenant would be to "bury" the Commission on Human Rights. This was the attitude taken by the U.K. and by Belgium and almost all other smaller countries represented on the Commission. In addition, certain members drew attention to the resolution of the Economic and Social Council that the Commission must make suggestions regarding ways and means for effective implementation of human rights. (U. N. doc. E/38 Rev. 1, May 21, 1946, p. 7. See *supra*, discussion of nuclear commission session.)

²⁹ Working group on the Declaration: Stepanenko (Byelorussian Soviet Socialist Republics); Cassin (France, rapporteur); Amado (Panama); Romulo (the Philippines); Bogomolov (U.S.S.R.); Mrs. Roosevelt (U.S., chairman). Working group on the covenant: Wu. Nen-Ju (China); Loutfi (Egypt); Malik (Lebanon, rapporteur); Lord Dukeston (U.K., chairman); Ribnikar (Yugoslavia). Cruz-Coke (Chile) was appointed but was unable to attend. Working group on implementation: Hodgson (Australia); Dehousse (Belgium, rapporteur); Mehta (India, chairman); Pourevaly (Iran); Klekovkin (Ukrainian S.S.R.). Carbajal Victorica (Uruguay) was appointed but was unable to attend.

I. Civil Rights

Eighteen articles deal with civil rights, which may be summarized as follows:

Personal Liberty: Right to life, liberty, and security of the person (article 4); freedom from slavery (article 8); freedom from torture, cruel or inhuman punishment, or indignity (article 7); freedom from interference with reputation, privacy, family, home, correspondence (article 9); liberty of movement and free choice of residence within states; right to leave country (article 10).

Legal Status: Right to recognition as a person before the law (article 12); equality before the law (article 3).

Provisions Applying to Civil and Criminal Cases: Access to independent and impartial tribunals; fair hearing; aid of qualified representative;³¹ use of foreign language when necessary (article 6);³² freedom from wrongful arrest;

³⁰ In general the Declaration follows the form of the Human Rights Drafting Committee's declaration—it is a rather lengthy document with a certain amount of technical detail included. The advantages of a short declaration (which could be easily memorized by any school child) were apparently considered to be outweighed by the advantages of a statement which, in the event that governments refused to become parties to the covenant in any substantial numbers, would furnish a guidepost for United Nations action. In addition, special interest in individual articles and the shortness of time at the declaration working groups' disposal made for length rather than brevity in drafting (a common enough experience in the United Nations and other fields). The U.S. submitted to the Commission a "short form" declaration consisting of 10 brief articles, describing in 350 words the rights sought to be covered (U.N. doc. E/600, Dec. 17, 1947, p. 25; BULLETIN of Dec. 7, 1947, p. 1076). While the decision of the working group was to produce a substantially longer draft, the Commission toward the close of its session recognized that the definitive declaration must be as short as possible (*ibid.*, p. 16, par. 50).

³¹ Originally provision was made for "aid of counsel". This provision was changed however in view of the fact that in certain administrative cases lawyers are not available as of right to the parties concerned.

³² Provision is made for having procedure explained in a manner which the party can understand, and the party is given the privilege of using a language which he can speak. This provision was warmly advocated by the Philippine member. The U.S.S.R. member would have preferred an even stronger provision. Certain of the civil law countries opposed the provision adopted regarding explanation of procedure, since it was not provided for under their laws and regarded as undesirable.

right to immediate judicial determination of legality of detention (habeas corpus) and to trial within reasonable time (article 5).³³

Additional Provisions Applying to Criminal Cases: Presumption of innocence; fair public trial; freedom from *ex post facto* laws (article 7).³⁴

Freedom from Discrimination: Freedom from discrimination in relation to the rights set forth in the Declaration "without distinction of any kind, such as race, (which includes colour), sex, language, religion, political or other opinion, property status, or national or social origin";³⁵ equal protection against "any arbitrary discrimination, or against incitement to such discrimination" (article 3).³⁶ Provision is also made that men and women "have the same freedom to contract marriage" (article 13); that women shall work "with the same advantages as men" and "receive equal pay for equal work" (article 24).³⁷

³³ It will be noted that a distinction is made between a "fair hearing" for civil and criminal cases, and a "fair public trial" for criminal cases.

³⁴ Special explanation is made covering cases of war criminals.

³⁵ The quoted provision departs from the language employed in arts. 1 (3), 13 (1, b), 55 (c), 76 (c) of the Charter—"without distinction as to race, sex, language, or religion". The view expressed by the United States was that the four categories described in the Charter were not meant to be exclusive, since the Charter refers to "human rights . . . for all".

³⁶ Cf. art. 17, Draft Declaration proposed by Panama, U. N. docs. E/HR/3, Apr. 26, 1946, or A/148, Oct. 24, 1946.

³⁷ In the Declaration working groups' article, provision was made that "women shall have the right to work under the same conditions as men", but an official comment was inserted that legislation providing protection for women, particularly in regard to heavy or harmful work, may be necessary. (U.N. doc. E/CN.4/57, Dec. 10, 1947, art. 30.) The change in the article as approved by the full commission was made on the suggestion of the Uruguayan member, Dr. Juan J. Carbajal Victorica.

³⁸ Art. 21—Everyone "without discrimination" has the right to participate in government; art. 25—Everyone "without distinction as to economic and social conditions" has the right to preservation of health; art. 27—There shall be access for higher education "without distinction as to race, sex, language, religion, social standing, financial means, or political affiliation."

³⁹ The article on religion makes it clear that this right is not limited to the act of worship, but extends to teaching and observance. The freedom of information articles were adopted from the Human Rights Drafting Committee's declaration without change and without discussion with the understanding that they would be referred to

In addition certain articles provide specifically that the right therein described is granted without discrimination, where such emphasis is considered desirable.³⁸

Right to Property: (Article 14)

Freedom of religion, information, assembly, and association: (Article 16, 17, 18, 19)³⁹

Right of Petition: Right is granted to petition one's state or the United Nations (article 20)⁴⁰

Right to Participation in Government: (Article 21)⁴¹

II. Social and Economic Rights

Nine articles deal with social and economic rights. These may be summarized as follows:

Substantive Rights: Right to engage in public employment (article 22); right to work (article 23);⁴² right to pay commensurate with ability,

the Freedom of Information Conference to be held in Geneva, Mar. 23, 1948, as well as the Subcommission on Freedom of Information and of the Press. The article on assembly and association enumerates the various purposes for which such activity is justified—purposes of a political, economic, religious, social, cultural, trade-union, or any other character, not inconsistent with the Declaration. Participation in international associations is permitted, but an official comment of the Commission provides that the right is not intended to extend to international political associations forbidden by law (U.N. doc. E/600, Dec. 17, 1947, p. 28).

⁴⁰ The right to petition the United Nations was objected to by certain members in previous sessions of the Commission and the Drafting Committee on the ground that no machinery had yet been worked out for its implementation. In the second session of the Commission, detailed machinery for dealing with petitions was discussed in the Covenant Working Group and was provided for by the Implementation Working Group.

⁴¹ The right is granted everyone to take an effective part in the government of his country and provision is made for periodic elections. The elections are to be "free, fair and by secret ballot". An official comment of the Commission provides that exceptions can be made in cases of non-metropolitan territories. It was pointed out that in certain primitive, illiterate communities the only way to obtain a fair election is by counting noses. The French member contended that the article should not be construed to require a specific form of ballot, and referred to the "Family Vote", which confers on adults voting rights which would belong to minors (U.N. doc. E/CN. 4/57, Dec. 10, 1947, p. 13).

⁴² The Human Rights Drafting Committee's provision on this point was the right to "perform socially useful work" (U.N. doc. E/CN.4/21, July 1, 1947, p. 79, art. 20).

to just and favorable working conditions, to join trade unions (article 24); right to preservation of health through highest standard of food, clothing, housing and medical care (article 25); right to social security, with special care and assistance for motherhood and children (article 26); right to education (which is to be directed to strengthening respect for human rights) (articles 27, 28); right to rest and leisure and vacations with pay (article 29); right to participate in cultural life (article 30).

Responsibility of the State Regarding Social and Economic Rights: The description of the social and economic rights refers frequently to the responsibility of the state, at various times expressed in terms of what it can do or what it must do.⁴³ On the other hand no reference is

⁴³ Thus the state must take all necessary steps to prevent unemployment (art. 23) and must maintain or insure the maintenance of social security measures (art. 26). It is to take such measures as are "within its power" to insure opportunity for useful work (art. 23); access to higher education shall be such "as can be provided by the state or community" (art. 27) and the responsibility of the state or community for health and safety can be fulfilled only by provision of adequate measures (art. 25); marriage and the family shall be protected by the state and society (art. 13). There is, however, no reference to state responsibility in connection with pay or working conditions (art. 30) or fundamental education (art. 27).

⁴⁴ Provision that the state shall conform to the will of the people (art. 21). Although freedom from discrimination in contracting marriage is here classified as a civil right, the protection of marriage would appear more properly to be a social right.

⁴⁵ The reason for this discrepancy lies partly in the fact that persons are so used to the state providing fair trial, et cetera, that nothing appears necessary to be said in this connection. On the other hand the social and economic rights are of recent origin, and mention of the state's duty to insure the right appeared to some desirable. In this connection note must be made of the respective influences of two differing schools of thought in the Commission. The members who were most interested in the definition of civil rights approached the Declaration as a statement of principles, setting forth in general terms the positive rights to be given the individual in the tradition of the great bills of rights of the past. They stated that the proper place for expressing duties of states with respect to these rights would be in a covenant or covenants. Certain other members, however, participated little in the drafting of the civil rights provisions, but were

made to state responsibility in connection with the enumeration of civil rights, except in the article dealing with participation in government.⁴⁴ Thus everyone is entitled to personal liberty, to a fair trial, and to other rights of this character, but nothing is said about the duty of the state to insure these rights.⁴⁵

As presently drafted, therefore, the Declaration shows a curious lack of balance, superficially indicating that the state must be more concerned with social and economic rights than with civil rights.

III. Miscellaneous Rights

Included under the category of miscellaneous rights are the two rights in the declaration which are of a purely international character and rights of minorities. The international rights deal with

actively interested in social and economic rights. These members laid stress upon the importance of state action with respect to social and economic rights; and they were unwilling to conceive of the present need for a covenant or covenants. It was the pressure of their arguments which gave impetus to specific wording relating to state responsibility in the social and economic field.

For example, the proposal that marriage be protected by the state was made by the Byelorussian member (addition of the responsibility of society—which would include the church—was not suggested by him); the proposal that the state take all necessary steps to prevent unemployment was also made by the Byelorussian member; on the other hand the change from a requirement that the state insure higher education to a statement referring to higher education "as can be provided by the state or community" was made by the United Kingdom member. The U.S.S.R. member evinced great interest in one civil right—freedom from discrimination. He proposed the following article (which was not accepted):

"All people are equal before the law and shall enjoy equal rights in the economic, cultural, social and political life, irrespective of their race, sex, language, religion, property status, national or social origin.

"Any advocacy of national, racial and religious hostility or of national exclusiveness or hatred and contempt, as well as any action establishing a privilege or a discrimination based on distinctions of race, nationality or religion shall constitute a crime and shall be punishable under the law of the State."

This article had originally been proposed by Mr. Borisov (U.S.S.R.) in the first session of the Sub-commission on the Prevention of Discrimination and the Protection of Minorities (U.N. doc. E/CN.4/Sub. 2/21, Nov. 26, 1947).

asylum and nationality (articles 11 and 15).⁴⁶ The provision on minority rights (article 31) presented an extremely difficult problem; the Commission refrained from approving or disapproving a provision for them.⁴⁷

A further right, the right to resist tyranny and oppression, is to be considered for inclusion in the preamble.⁴⁸

Articles of Limitation

Although there was detailed discussion of what rights could to some extent be abridged in connection with the covenant and mention was made of freedom from torture as being one which could not be abridged in any way⁴⁹ the Commission made no effort to affirm in the Declaration any "absolute" rights other than individual freedom of thought and conscience.⁵⁰ It was recognized in article 2 that rights are limited, first, by the "rights of others" and, second, by the "just requirements of the democratic state".⁵¹

The provision for rights of others is designed to take care of what might be described as con-

flicting rights. One man's right to freedom of speech (article 17) does not authorize him to slander another's reputation, since under article 9 the other has the right to protection of his reputation.⁵²

The existence of conflicting rights is ordinarily evident from the context of the Declaration.

The Declaration contains no guide as to what is meant by the "just requirements of the democratic state"; nor does it give any indication of what these requirements may be except that all laws shall be "in conformity with the purposes and principles" of the Charter (article 32) and that no state (or person) may engage in any activity aimed at the destruction of rights prescribed in the declaration (article 33). Reference to the covenant, however, indicates the type of state action which may be contemplated: deprivation by the state of life⁵³ for crime legally warranting such penalty; ⁵⁴ imposition of obligation of emergency service in case of fire or flood ⁵⁵ despite declaration of freedom from slavery; ⁵⁶ prohibition of assembly,⁵⁷ if it obstructs traffic.⁵⁸

Specific limitations are occasionally detailed in

⁴⁶ In each case a change was made from the Human Rights Drafting Committee's wording. The right of asylum, formerly limited to seeking asylum from persecution, is now extended to the right to "seek and be granted" asylum. One of the strongest proponents of this change was the French member, who cited the case of Spanish loyalists finding refuge on French soil. In the case of nationality a provision is added to the assertion of everyone's right to a nationality, to the effect that the United Nations shall protect those who do not enjoy the protection of any government. These rights may be noted as particularly vivid examples of the distinction between a declaration and a covenant. While the principle of granting asylum and granting nationality is recognized, it is obvious that a very clear definition of how these rights are to be construed must be worked out before any state will be willing legally to enforce them within its own jurisdiction.

⁴⁷ In the Human Rights Drafting Committee, a redraft of the original secretariat provision (U.N. doc. E/CN.4/21, July 1, 1947, p. 23, art. 46) was made by Professor Cassin (*ibid.*, p. 65, art. 44) and approved with minor changes without any prolonged attempt on the Committee's part to agree on a definitive version (*ibid.*, p. 81, art. 36). The Committee referred this draft to the Sub-commission on the Prevention of Discrimination and the Protection of Minorities. In the Declaration as submitted by the Commission, both the Drafting Committee's version and the

subcommission's version are included (U.N. doc. E/600, Dec. 17, 1947, p. 21, art. 31). Each of these versions grants the right to groups to establish and maintain schools and cultural or religious institutions and use their own language in the press, public assembly, and courts. No specific right is given to share in public funds for this purpose; such a right was provided in the original secretariat proposal (U.N. doc. E/CN.4/21, July 1, 1947, p. 23, art. 46).

⁴⁸ U.N. doc. E/600, Dec. 17, 1947, p. 23, par. 2.

⁴⁹ Discussion by Lord Dukeston (U.K.) in the full Commission in connection with art. 4 of the covenant.

⁵⁰ Art. 16.

⁵¹ Cf. draft declaration presented by Panama, art. 18; draft bill prepared by the Commission to Study the Organization of Peace, art. 3, both of which use the quoted wording.

⁵² Nor does one man's right to manifest his beliefs in observance (art. 16) allow him to kill another in the rite of human sacrifice, since under art. 4 the other has the right to life.

⁵³ Declaration art. 4 provides for right to life.

⁵⁴ Covenant art. 5.

⁵⁵ Covenant art. 8.

⁵⁶ Declaration art. 8.

⁵⁷ Declaration art. 19 provides for the right of assembly.

⁵⁸ Covenant art. 18.

individual articles⁵⁹ for purposes of emphasis: the over-all limitation clause (article 2) could easily be construed to authorize their imposition without detailed enumeration.

COVENANT

The Covenant differs from the Declaration in

"Freedom of movement and choice of residence may be limited by laws adopted for security or in general interest (art. 10); the right of asylum is not to be granted criminals or those acting against the aims of the United Nations (art. 11); a similar limitation is placed on United Nations protection of stateless persons (art. 15).

*The United States stated its preference for having the substantive articles of the covenant expressed without any limitations but to have a single limiting clause expressed as follows:

"The full exercise of these rights requires recognition

that it is clearly intended to constitute a legally binding obligation and in that it covers a relatively small number of rights. In addition, in its present form it spells out, where appropriate, specific limitations to each right.⁶⁰

of the rights of others and protection by law of the freedom, general welfare and security of all".

This view was agreed to by certain other members (U.N. doc. E/600, Dec. 17, 1947, p. 37, par. 4). The United Kingdom, although strenuously opposing a general over-all limitation clause on the ground that it would render the covenant "innocuous" and bring the United Nations as well as the covenant into discredit (*ibid.*, p. 37, par. 5), sponsored successfully the insertion of an article allowing a state in time of "war or other public emergency" to take measures derogating from its obligations under the covenant "to the extent strictly limited by the exigencies of the situation" (*ibid.*, p. 30, covenant art. 4).

Substantive Rights

The specific rights contained in the Covenant and their limitations may be summarized as follows with cross references to the Declaration articles in parentheses:

SUMMARY OF COVENANT ARTICLES

Article	Right	Right not applicable in case of—
5	Right to life (declaration article 4). . .	Proper criminal conviction.
6	Freedom from mutilation or scientific experimentation (no corresponding declaration article).	No exception.
7	Freedom from torture, cruel or inhuman punishment, or indignity (declaration article 7).	No exception.
8	Freedom from slavery or forced labor (declaration article 8, referring to slavery only).	Proper criminal conviction, military service, ⁶¹ emergency service, communal service.
9	Right to personal liberty (declaration articles 4 and 5; right to "liberty and security of the person"; freedom from wrongful arrest). Prompt information of charges in case of arrest (no corresponding declaration provision). Trial within reasonable time (declaration article 5). Habeas corpus (declaration article 5). Compensation for false arrest (no corresponding declaration provision).	Arrest in proper court proceedings, retention of insane, custody of minors. No exception. No exception. No exception. No exception.
10	Freedom from imprisonment for debt (no corresponding declaration article).	No exception.

⁶¹ Provision is made for conscientious objectors performing service of a nonmilitary character. A provision that conscientious objectors should be "compensated with adequate maintenance and pay" was defeated (*ibid.*, p. 39).

SUMMARY OF COVENANT ARTICLES—Continued

Article	Right	Right not applicable in case of—
11	Liberty of movement and free choice of residence within state (declaration article 10). Right to leave country (declaration article 10).	Laws adopted for security or general interest. Lawful deprivation of liberty; obligation of military service. Illegal entry.
12	Freedom of alien from arbitrary expulsion (no corresponding declaration article).	Illegal entry.
13	Fair hearing in all cases (declaration article 6). Public trial in criminal cases (declaration article 7).	No exception. No exception.
14	Freedom from <i>ex post facto</i> laws (with special explanation in regard to war criminals) (declaration article 7).	No exception.
15	Right to juridical personality (declaration article 12, "recognition as a person before the law").	No exception.
16	Freedom of religion (declaration article 16).	Laws protecting public order, welfare, morals, rights of others.
17	Freedom of information and expression ⁶² (declaration articles 17, 18.)	Publications inciting to alter government by violence, to promote disorder or crime; obscenity; suppression of human rights; publications injurious to fair conduct of legal proceedings; libel; slander; advocacy of national, racial, or religious hostilities inciting to violence. ⁶³
18	Right of assembly (declaration article 19).	Assembly which is not peaceable. Restrictions may also be imposed to protect life or property; to prevent disorders or obstruction of traffic and free movement of others.
19	Right of association (declaration article 19).	Promotion of interests which are not legitimate or lawful objects.
20	Freedom from discrimination in relation to rights set forth in the Covenant, equal protection against arbitrary discrimination or incitement thereto (declaration article 3).	No exception.

⁶² As in the case of Declaration arts. 17 and 18, the Covenant article on freedom of information and expression was taken from the Human Rights Drafting Committee's draft and was not specifically passed on by the Commission. An alternate version suggested by the United States is also printed. The United States version does not contain specific limitations but relies on an over-all limitation clause.

⁶³ This last limitation is not contained in art. 17; it is set forth separately in art. 21.

In addition to the above, the Covenant provides in article 21 that advocacy of national, racial, or religious hostility inciting to violence shall be prohibited;⁶⁴ and in article 22 that no state (or person) may engage in any activity aimed at the destruction of rights prescribed in the Covenant.⁶⁵

Comparison Between Declaration and Covenant

It will be seen that the following rights are contained in the Covenant which are not contained in the Declaration:

Freedom from mutilation or scientific experimentation (article 6); prompt information of charges in case of arrest (article 9); compensation for false arrest (article 9); freedom from imprisonment for debt (article 10); freedom of alien from arbitrary expulsion (article 12); prohibition of advocacy of national or religious hostility (article 21).

The following rights are contained in the Declaration which are not contained in the Covenant:

Freedom from interference with reputation, privacy, family, home, correspondence (article 9); right of asylum (article 11); equal freedom to contract marriage (article 13); right to property (article 14); right to a nationality (article 15); right of petition (article 20); right to participate in government (article 21); all social and economic rights (articles 22-30); rights of minorities

⁶⁴ No corresponding Declaration article.

⁶⁵ Since this right involves implementation, it is considered in the report on implementation; the Commission reached no definite conclusion as to whether it should or should not later be included in the Covenant.

⁶⁶ The distinction is justified by those supporting the two drafts on the assumption that the Covenant is a legally binding agreement whereas the Declaration is a statement of aspirations, certain of which can be placed in a covenant forthwith, others placed in covenants at a later time, and still others left for an indefinite period as moral rather than legal obligations. Under this assumption it is necessary to seek something approaching a least common denominator of rights presently contained, or contemplated for adoption, in the laws of a substantial number of member nations to constitute the material for the first convention. It so happens that rights of this character are the long-established civil rights. Social and economic rights, unknown until recently, are not generally or consistently contained in or projected for enough member nations' laws to make a proposal for a covenant on the subject worthy of immediate considera-

(article 31); right to nationality (article 15); right of petition (article 20).⁶⁶

In other words, the Covenant deals exclusively with civil rights whereas the Declaration deals with civil, social and economic, and miscellaneous rights.⁶⁶

It is worthy of note also that the Covenant does not include all civil rights. Even such elementary rights as ownership of property and participation in government have not been included. The reason given for this was that the beginning must be relatively modest; that nations will not be willing to enter into a covenant which contains rights whose definitions vary considerably in different countries. Under the circumstances it is surprising that a majority of the Commission was able to agree on as many rights as are contained in the Covenant; and the possibility must be envisaged that in subsequent re-examination the Covenant may be narrowed rather than broadened in scope.⁶⁷

Responsibilities of States

The undertaking of each state which becomes a party to the Covenant is expressed in article 2: that its laws should secure the enjoyment of the rights set forth in the Covenant; that it should insure that any person whose rights are violated has an effective remedy, enforceable by independent judiciary and supported by police and executive officers. As an instrument ratified by na-

tion. Analysis of the constitutions of member states compiled by the U.N. secretariat at the time of the first meeting of the Human Rights Drafting Committee (U.N. doc. E/CN.4/AC.1/3/Add.1, June 11, 1947) makes this point clear. In the case of certain Commission members who expressed more interest in the social and economic rights than in the civil rights, this was one reason for their voting against the proposed Covenant; but these members made no counter-proposal for a covenant dealing with social and economic rights.

⁶⁷ The Covenant is to be open to accession by all states (article 23). Provision is made for General Assembly approval in the case of states not members of the U.N. or parties to the International Court of Justice. A U.S. alternative article in the body of the text contains no such limiting provision. It will come into force as soon as two thirds of the U.N. members have acceded to it. The disability of federal-state governments to bind states, provinces, or cantons is recognized in article 24, the wording of which is derived from that successfully worked out in international labor conventions. A special provision is also inserted with respect to colonies and territories (article 25).

tions in accordance with their constitutional processes and containing detailed provisions rather than statements of general principles, it would constitute a legally binding obligation. This obligation extends not only to the passage of laws but to the insurance of their enforcement.

IMPLEMENTATION

Within the lapse of less than two years, the United Nations has made considerable strides in working out the details of a declaration and the substantive articles of a covenant. When it comes to the all-important question of what the United Nations can or should do when a right is violated, a majority of the Human Rights Commission members have been quite unwilling to commit themselves. At the first session of the nuclear commission, the significance of this problem was recognized.⁶⁸ At the first session of the full Commission, only three members made formal, specific suggestions for implementation.⁶⁹ At the first session of the Human Rights Drafting Committee, these suggestions and two additional suggestions⁷⁰ were set forth in an information memorandum produced by the secretariat on request,⁷¹ but no committee action was taken with respect to them.

At the second session of the Human Rights Com-

⁶⁸ See discussion of nuclear commission session, *supra*.

⁶⁹ The U.S. originated the proposal that implementation be accomplished by one or more treaties or conventions (U.N. doc. E/CN.4/4, Jan. 28, 1947). But it did not offer specific suggestions as to what means of implementation should be contained in the conventions. Australia proposed an International Court of Human Rights (U.N. doc. E/CN.4/15, Feb. 5, 1947). India proposed investigation and enforced redress by the Security Council in the case of all violations of human rights (U.N. doc. E/CN.4/11, Jan. 31, 1947, par. V).

⁷⁰ Proposals made in the Covenant for consideration of violations by the General Assembly, and obtaining of advisory opinions by the International Court of Justice, suggested by the U.K. (U.N. doc. E/CN.4/21, July 1, 1947, art. 6, p. 32); general proposals for protection of rights "by the commonwealth of nations" and the constitution of "an appropriate International organ with a view to ensuring effective observance of those rights" made by France (*ibid.*, annex H, p. 95).

⁷¹ *Ibid.*, annex H.

⁷² Of the six members assigned to work on this group, one (the member from Uruguay) was unavoidably detained and did not arrive in time to participate. Another (the Ukrainian member) refused to participate in any

mission a report was made by a four-member working group on implementation,⁷² but this report was not approved by the Commission. The report was, however, sent to all member governments for comment, together with the approved drafts of the Declaration and Covenant, since it is necessary before further consideration is given to the Declaration and the Covenant to know whether they are to contain measures of implementation and, if so, what these measures should be.

Implementation of the Covenant

The principal conclusions reached by the four-member Implementation Working Group relative to the Covenant are as follows:

1. The Covenant should become part of the laws of states accepting it.⁷³

2. The General Assembly, the Economic and Social Council, and the Human Rights Commission should have the right to make recommendations regarding violations of the Covenant.⁷⁴

3. The right of petition (alleging violations of the Covenant) should be open to individuals and groups as well as to states.⁷⁵

4. Machinery for petitions should be as follows: A standing committee of five or more independent persons should be appointed, to be aided by an

but the first two meetings (seven in all were held) on the ground that discussion of implementation should be postponed.

⁷³ U.N. doc. E/600, Dec. 17, 1947, p. 44. The report of the Working Group states that measures should preferably be taken by states within their local jurisdictions bringing their laws into line with the Covenant before they ratify the Covenant; otherwise, such measures should be taken within the shortest possible time thereafter.

⁷⁴ *Ibid.*, p. 48. The Working Group felt that the Economic and Social Council should delegate its authority to the Commission in this respect.

⁷⁵ *Ibid.*, pp. 50 ff. This right should not be granted in the case of petitions from nationals of nonsignatory states, or from nongovernmental organizations which do not originate in a signatory state. In connection with this point, and also in connection with article 2 of the Covenant, the question was raised as to whether nonparticipating states or their nationals could allege a violation. As drafted by the Covenant Working Group, the Covenant would have given the right to nonparticipating states to allege violations, since the obligations of the Covenant were stated to be "international law". This provision was deleted in the full Commission on motion of the Egyptian member, in effect, on the ground that nonparticipating states should not be given benefits without expressly assuming burdens.

enlarged secretariat staff and by subcommittees. The committee should screen petitions and negotiate in private session.⁷⁶

5. Supervision and enforcement by the United Nations is legally possible⁷⁷ and advisable; this should be done at a later stage by an organ of the United Nations or a specialized agency.⁷⁸ An international court on human rights is advisable.⁷⁹ The General Assembly, rather than the Security Council, should "ensure . . . implementation of decisions of the . . . Court".⁸⁰

Implementation of the Declaration

There was some indication of a desire to provide for implementation in the Declaration.⁸¹ Actually, however, the Commission approved no provision for implementation of the Declaration, and the Implementation Working Group indicated that the problem of implementation did not arise with regard to the Declaration in view of its "non-binding nature".⁸²

⁷⁶ *Ibid.*, pp. 53-56.

⁷⁷ *Ibid.*, pp. 52, 53. The legal question here considered is whether the United Nations can perform a function not specifically referred to in the Charter. The Working Group concluded that the brief Charter provisions relating to human rights called for specification, and referred to United Nations responsibility for administration of Trieste, based on the peace treaty with Italy, as a precedent for action not specified in the Charter.

⁷⁸ *Ibid.*, pp. 56-62.

⁷⁹ *Ibid.*, p. 61.

⁸⁰ *Ibid.*, p. 63. The Working Group recognized that the General Assembly has powers of recommendation only.

⁸¹ A proposal was made (rejected by both the Declaration Working Group and the full Commission) that the Declaration contain a provision that all United Nations members shall assure that their law is brought into and maintained in conformity with the principles of the Declaration, and that a system of effective judicial appeal be organized by the state to penalize violations of these principles (U.N. doc. E/CN.4/57, Dec. 10, 1947, report of the Declaration Working Group, p. 17). Taken in conjunction with the Implementation Working Group's dictum that rights expressed in the Declaration were outside the domestic jurisdiction of member states (U.N. doc. E/600, Dec. 17, 1947, p. 43, question B), the proposal could in effect have provided to a considerable extent the same implementation for Declaration violations as is provided in the Covenant. Although the Implementation Working Group's proposals for an expert committee or for an international court of human rights would not apply to violations of the Declaration, it would seem that the right

As at present drafted, even without the inclusion of specific articles on implementation along the lines suggested by the Implementation Working Group, it is possible that the Covenant would be considered to have removed the barrier imposed by the Charter's domestic jurisdiction clause.⁸³ At the very least, one country which has ratified the Covenant might complain, outside of the United Nations, of violations by another country which has ratified the Covenant; and in view of the essentially domestic nature of the Covenant's obligations, this could concern matters within the offending country's domestic jurisdiction. According to the opinion of the Working Group, such complaint could be made in the forum of the United Nations.⁸⁴

It would not seem, however, that any such removal of the barrier would apply to the Declaration.⁸⁵ Indeed, the project of having recommendations made as to specific violations of an instrument which is an expression of aspirations and is not binding could present considerable difficulties.⁸⁶

of the General Assembly, the Economic and Social Council, and the Commission on Human Rights to make inquiry and recommendation could in such event apply.

⁸² U.N. doc. E/600, Dec. 17, 1947, p. 44.

⁸³ Art. 2, par. 7 of the U.N. Charter provides: "Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII." (Chapter VII deals with Security Council action with respect to threats to the peace, breaches of the peace, and acts of aggression.)

⁸⁴ *Ibid.*, pp. 47-53.

⁸⁵ See letter of Ernest A. Gross, Legal Adviser to the Secretary of State, to the Attorney General, dated Nov. 4, 1947, regarding *Shelley v. Kraemer* (no. 72, U.S. Supreme Court), submitted as an exhibit in the brief of the United States as *amicus curiae*; see also Secretary of State's Report to the President on the Results of the San Francisco Conference, Department of State publication 2349, p. 115.

⁸⁶ In this connection the question must be considered whether the complaint against South Africa because of its treatment of Indians would have been the proper subject of U.N. recommendation had it not been for treaties and clearly international subject matter involved. See proceedings of the General Assembly, first session, second part.

Work Accomplished; Work To Be Done

The Commission on Human Rights has produced a Declaration, designed to be a statement of aspirations, that summarizes the civil, social and economic, and other rights which the Commission members felt to be most important. It could be regarded as complete except for a preamble. Whether it will be further expanded, or contracted, whether its emphasis should be on the right of the individual or the right of the state, are among the principal questions facing the Commission and other bodies which will recast it in shape for presentation to the General Assembly.⁸⁷

The Commission has also produced a partial draft of covenant, which is designed to set forth individual rights which member states would be legally bound to observe. The Covenant contains a limited number of civil rights. A principal question to be decided in connection with the Covenant is (as in the case of the Declaration) whether it is to be expanded or contracted.⁸⁸ Another question is to what extent failures to comply with the Covenant's provisions shall warrant international action.

In addition the Commission has authorized the circulation of a working paper on implementation, approved by four of its members.

The work on the international bill of human rights⁸⁹ has reached the half-way mark. Mem-

ber nations have by now received the Commission's drafts. Their comments must be formulated. There remains consideration at sessions of the Human Rights Drafting Committee, the Human Rights Commission, the Economic and Social Council, and the General Assembly, all to be held this year.

The work on the bill of rights to date (February 1948) has been more rapid and more ambitious than many commentators had believed possible. The results of the Commission's second session cannot be considered in any way final so far as the United Nations or any individual member state is concerned. The eighteen members of the Commission are not necessarily a cross section of the United Nations as a whole; and even the governments whose members served on the Commission are not bound by the admittedly tentative conclusions which the Commission reached.

What the Commission sincerely strove to do was to create an atmosphere and the framework of a system in which human rights can be recognized to a fuller extent than hitherto dreamed of. The terrain over which the Commission traveled was absolutely new. Whether or not member nations will feel that the trail blazed by the Commission leads in the right direction will become evident over the course of the next few months.

⁸⁷ See discussion of definitive plan for drafting of bill, *supra*.

⁸⁸ In this connection attention may be given to the proposal originally made by the United States (U.N. doc. E/CN.4/4) for a series of covenants, which was favorably discussed at the Commission's second session.

⁸⁹ The three documents—Declaration, Covenant, and report on implementation—are for the time being referred to by the Commission on Human Rights as the "International Bill of Human Rights" (U.N. doc. E/600, p. 6, par. 18).

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Report of the Activities of the Interim Commission of the World Health Organization in 1947. E/593, January 14, 1948. 26 pp. mimeo.

¹ Printed materials may be secured in the United States from the International Documents Service, Columbia University Press, 2960 Broadway, New York City. Other materials (mimeographed or processed documents) may be consulted at certain designated libraries in the United States.

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Department of State Bulletin

THE UNITED NATIONS AND SPECIALIZED AGENCIES

Sixth Session of the Economic and Social Council

STATEMENT BY WILLARD L. THORP¹

U.S. Representative to ECOSOC

MR. CHAIRMAN: As you all unhappily know, we have an agenda before us of 45 items, and it is rather difficult to anticipate adequate consideration of all these items in the length of time we will have in the next several weeks.

I think before I discuss particular items I would merely want to make one general observation. On the document each one of these items looks to be of equal importance. I think we should remember that there are some items here which do indicate a rather new opportunity for our work. For the first time we will have an opportunity to discuss together a careful analysis of general economic conditions and trends. Unfortunately, for reasons which we all understand, we have not had a chance to study these documents in advance, but I know as soon as we have them we will all be very much concerned and interested in them. At the same time we have a series of subjects relating to co-ordination, and we also have the reports of a number of specialized agencies and of commissions and subcommissions. Now these things together mean that we at last have the opportunity which all of us have been anticipating ever since the Council started to undertake the task of reviewing the economic problems, the social problems of the world, reviewing the work of the United Nations and its related agencies, and seeking as best we can to increase the effectiveness and efficiency of the United Nations with respect to these problems. I think the exciting thing about the agenda is hidden away in these small items—small in the number of words on the agenda—and the opportunity to do this task. At the last meeting we were looking forward to the time when we could move toward a consideration of the basic economic con-

ditions in the world and the effectiveness of our own agencies. Apparently that time has come.

With respect to the individual items on the agenda, I should like to divide my remarks into two general groups: first, with respect to the matter of whether certain items should or should not be on the agenda and, secondly, with respect to the sequence of items on the agenda.

With respect to the items that are on the agenda, we see very little that can be done to change the grouping. I would like to comment on item 8. Item 8 is the one entitled "Damage Caused to the Federal People's Republic of Yugoslavia by the Withholding of its Gold Reserves by the United States of America". This is an item which implies that the Economic and Social Council is an agency for resolving disputes between two nations. I shall not discuss in any way the content of this matter, but I should like to say that it is a matter on which negotiation has been taking place between ourselves and Yugoslavia. No resolution has yet been reached of the group of problems of which the item on the agenda is one. The Economic and Social Council has certain functions and powers which are defined in the Charter. There is nothing in the Charter which authorizes the Council to act in an arbitration or a conciliation or a judicial determination. In the Charter you will find all references to the settlement of disputes and situations relating to the work of the Security Council, not relating to the work of the Economic and Social Council. The notion that

¹ Made at the opening session on Feb. 2, 1948, and released to the press by the U.S. Mission to the U.N. on the same date. Mr. Thorp is Assistant Secretary of State for economic affairs.

this agency should become an agency for resolving bilateral economic disputes was certainly not contemplated at San Francisco, and one can find no such indication of a function for us in the Charter. So, for technical grounds, I carefully question the propriety of items of this type appearing on our agenda.

I just should like to speak in a sense for more practical reasons as to why it is somewhat unfortunate to have such items on the agenda. Those of you who have engaged in negotiations are well aware of the fact that your negotiations are made increasingly difficult by the degree to which positions are taken by either Government publicly. In a full discussion of a problem of this sort in public, both Governments involved, I think, will find themselves in a greater difficulty when it comes to ultimately resolving the issue. So, for technical grounds and practical grounds, I regret that this item is on the agenda. However, the United States is a party with respect to this matter. The United States does not wish to take any position which would indicate that it is unwilling to have its acts discussed. We are prepared to discuss the merits of positions taken by our Government, and, therefore, with respect to this item, I shall not oppose its inclusion on the agenda although I do believe that it is most unfortunate to find it there. I cannot take the position of approving it being on the agenda, and, therefore, when we ultimately approve the agenda, Mr. Chairman, I shall ask to be recorded as abstaining with respect to this particular item.

The question has been raised with respect to two items having to do with the specialized agency of ICAO. Nothing that I say on this matter should be regarded as indicating the position of the United States Government with respect to these items. But I should like to support the position taken by the representative of the Secretary-General before the Agenda Committee. That position is reported in full on page 7 of the Agenda Committee's report, and it indicates that the Secretary-General holds that the agreement came into force in May 1947 on action taken by the First Assembly of ICAO to amend its constitution so as to debar Franco Spain from membership and on the withdrawal of the Spanish Delegation from that Assembly; that the coming into force of the agreement had been reported to the General Assembly at its second regular session, to which no objection

had been made; and that the General Assembly had taken a number of actions under the terms of the agreement, including the approval of the admission of Italy and Austria to membership of ICAO. And if, Mr. Chairman, action of the General Assembly with regard to the budget and the allocation of money is to be cited, it seems to me the fact that the General Assembly has taken action with respect to ICAO is an indication that it would be rather snobbish of us to decide that we could not be on friendly relations with the agency which the General Assembly was quite prepared to deal with. On this particular matter I think we have to accept the ruling of the Secretary-General as to whether the requirements of the General Assembly have or have not been made.

There has been some discussion of item 28, the item relating to slave labor. Apparently in general it is recognized that there is a problem of considerable importance but that it is brought before the Economic and Social Council in a questionable setting. I wonder whether that is a legitimate reason for eliminating something from the agenda, Mr. Chairman. The agenda is intended to direct our attention to a problem. In considering the problem I would assume that our duty is to redefine the setting, if we have question about it; to put the problem in its proper context; to determine, if we cannot deal with it, the proper agency to deal with the problem. I was quite impressed with the suggestion made by the Delegate of Poland as to a possible solution of this problem. The fact is that the problem exists, and the speeches with reference to it have justified its inclusion on the agenda.

Now I should like to speak of several points with respect to the order in which things are included on the agenda. Again, Mr. Chairman, I am trying not to discuss the substance but only the problem of setting up a series of topics for our consideration.

The first item about which I have some question is item numbered 5 on the new agenda having to do with the election of three members of the Joint Economic Board for Palestine. The only question on that is that by putting this so early on the agenda it is clear that no action can be taken by the Economic and Social Council, because before any such action could be taken we need a much more exact definition of the requirements, salary, the status, and such things for these indi-

viduals. I have no reason for believing that we will have such information before the end of our session. But it would seem to me that if we do place this item early on our agenda, we should be at least willing to reestablish it on the agenda in the latter days of our session if by chance circumstances develop in such a way that we could properly deal with it in this session.

With respect to item 8—that is the item which I have already discussed as relating to the gold reserve problem—it came as quite a surprise to me to discover its being placed so early on the agenda. It is an item which is not a standing item. It is a new and special and very limited problem. It had originally been item 31 and I would have to state, Mr. Chairman, that if the agenda were followed in this order, which would bring this item up before the Council in a day or two, I should have to ask for some postponement because I shall not be able to take the matter up before next week.

As to item 23, this is an item proposed by the Food and Agriculture Organization concerning coordinated action to meet the continuing world food crisis. On this item the documentation is, to say the least, obscure. This may be a substantive item having to do with food problems. It may be a coordinating item having to do with various agencies in the field of food and agriculture. I would hope that its being placed as a problem in the economic group would not prevent our considering it as one of our coordination problems if

later documentation proves that that is the more appropriate place where it should be included.

Finally, I should like to talk about coordinating items in general. As the agenda comes before us, the fourth group of items from 32 on are grouped together as coordination problems. This agenda is set up this way on the assumption, I believe, that we are virtually going through the entire agenda rather quickly group by group, getting the items into committees for more detailed work. In that case I have no difficulty with this structure. If, on the other hand, we follow the practice which we have had in the past of going on down through the agenda more carefully, I would be inclined to feel that we ought not to leave coordination and its problems to the very end. I agree with the Representative from Australia that emphasis should be put on this point. It should not be incidental; it should be one of our major responsibilities. I am not sure that we ought not to give consideration to coordination problems before we move into the problems of the individual agencies. At any rate, we should have it in mind at that time. While I am not suggesting a change in the agenda with respect to these items, I do suggest that we all keep in mind the fact that we are most concerned ourselves with the problem of coordination and not have it the tail end of our consideration here at our meetings, but have it something that is going along with the substantive consideration of the particular matters before us.

AGENDA FOR THE SIXTH SESSION OF ECOSOC¹

1. (1)* Election of President and Vice-Presidents for 1948
2. (2) Report of the Agenda Committee and adoption of Agenda
3. (9) United Nations Maritime Conference: Question of Voting Rights
4. (21) Admission of Monaco to UNESCO
5. (36) Consideration of arrangements in connection with the election by the Economic and Social Council of three members of the Joint Economic Board for Palestine
6. (38) Draft Rules for the calling of International Conferences
7. (32) Proposal to hold the seventh session of the Economic and Social Council at the United

Nations Headquarters, Lake Success. Item proposed by the representative of the United Kingdom

8. (31) Damage caused to the Federal People's Republic of Yugoslavia by the withholding of its gold reserves by the United States of America. Item proposed by Yugoslavia

¹ Recommendations of the Agenda Committee to the Council subject to reservations and comments contained in section I of the report of the Agenda Committee, U.N. doc. E/631, Jan. 31, 1948.

* Numbers in parentheses represent numbers of items as in U.N. doc. E/607.

THE UNITED NATIONS AND SPECIALIZED AGENCIES

Agenda for the Sixth Session of ECOSOC—Continued

9. (new Addition to Article concerning the use of the item) United Nations "laissez-passer" to the agreement between the United Nations and the ICAO
10. (15) Report of the second session of the Social Commission
11. (16) Report of the second session of the Population Commission
12. (17) Report of the second session of the Commission on Narcotic Drugs
13. (18) Report of the Permanent Central Opium Board
14. (19) Report of the Executive Board of the International Children's Emergency Fund
15. (20) United Nations Appeal for Children
16. (28) Report by the Secretary-General on the question of the establishment of Research Laboratories of the United Nations
17. (6) Report of the *ad hoc* Committee on the proposal for an Economic Commission for Latin America
18. (7) Question of the establishment of an Economic Commission for the Middle East
19. (5) Report of the Economic Commission for Asia and the Far East
20. (4) Interim report of the Economic Commission for Europe
21. (8) United Nations Scientific Conference on Conservation and Utilization of Resources
22. (3) Surveys of World Economic Conditions and Trends
23. (33) Co-ordinated action to meet the continuing world food crisis. Item proposed by the FAO
24. (10) Report of the second session of the Statistical Commission
25. (new item) Resolution of the United Nations Trade and Employment Conference at Havana on employment (if accepted and passed by the plenary conference at Havana in time)
26. (12) Report of the second session of the Commission on Human Rights
27. (14) Report of the second session of the Sub-Commission on Freedom of Information and of the Press
28. (34) Survey of forced labour and measures for its abolition. Item proposed by the American Federation of Labor
29. (new item) Report of the second session of the Commission on the Status of Women
30. (35) Principle of equal pay for equal work for men and women workers. Item proposed by the WFTU
31. (13) Genocide
32. (22) Relations with and co-ordination of specialized agencies
33. (23) Work programmes of Commissions of the Council for 1948 and draft calendar of meetings and conferences in 1948
34. (24) Reports of the specialized agencies
35. (25) Report of the Co-ordination Committee
36. (26) Report of the Committee on Negotiations with Intergovernmental Organizations
37. (27) Report of the Council Neo Committee
38. (11) Implementation of economic and social recommendations
39. (30) Co-ordination of cartographic services of specialized agencies and international organizations. Item proposed by the representative of Brazil
40. (29) Establishment of an International Centre for Training in Public Administration. Item proposed by the representative of Brazil
41. (new item) Composition of Interim Co-ordinating Committee for International Commodity Arrangements
42. (new item) Other urgent questions arising out of the United Nations Conference on Trade and Employment at Havana
43. (37) Election of members of the Permanent Central Opium Board
44. (39) Confirmation of Members of Commissions
45. (40) Election of members of the Agenda Committee for the seventh session

Kenneth Holland Named U.S. Counselor on UNESCO in Paris

Appointment of Kenneth Holland, assistant director of the Office of Information and Educational Exchange, to be United States counselor on UNESCO affairs at the American Embassy in Paris was announced on January 30 by the Department of State.

Period Extended for Presentation of Views Regarding Revision of Schedule I of Trade Agreement With Mexico

The Committee for Reciprocity Information announced on January 29 that the closing date for the filing of briefs and for making application to be heard in regard to negotiations for the revision of schedule I of the trade agreement with Mexico is extended until February 18. The date for the public hearing is postponed until February 25, beginning on that date at 10 a. m. Public notice of intention to negotiate for the revision of schedule I of the trade agreement with Mexico was made on December 30, 1947, by the Acting Secretary of State and appears in the December 31, 1947, issue of the *Federal Register* (12 F. R. 8901).¹

¹ BULLETIN of Jan. 11, 1948, p. 59.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

Clarification of Status of Certain Discussions Within Far Eastern Commission

[Released to the press by the FEC on January 30]

The attention of the Chairman of the Far Eastern Commission has been called to reports recently appearing in the press, purporting to disclose the status of certain discussions within the Commission. In response to numerous queries regarding these reports, which carry inaccurate and totally misleading implications, the Chairman has authorized the following statement.

The Chairman desires to make clear that no member of the Far Eastern Commission has "blocked consideration" of any increase in Commission membership, or of any other proposal.

In regard to the disarmament of Japan, as was explained in the report of the Secretary General released to the press on July 17, 1947,¹ this subject has been under active discussion within the Commission for some months, looking towards the formulation of principles based upon pertinent sections of the Commission's basic policy agreement. In the course of these discussions representatives have from time to time introduced proposals that naturally reflect differing points of view. Here, as with other matters, negotiations have been carried on within the Commission in an effort to arrive at Allied agreement.

The manner in which these negotiations have been conducted over many months has not changed. Personal relations between representatives continue to be courteous and reasonable. Such differences of opinion as have appeared have been, and continue to be, aired in full and friendly fashion. This procedure has not been modified as a result of changes in personnel that have taken place over the course of two years. Its success is attested by the Allied agreements that have thus far been reached on some 46 policy questions.

In his capacity as United States Representative, the Chairman last week presented to the Commission a statement on the economy of Japan which was subsequently made public. In that statement the Chairman had occasion to observe that the United States Government recognizes "that the cooperation of the Far Eastern Commission and its member states is essential to the successful accomplishment of a program for bringing about a self-supporting economy in Japan." American policy toward Japan, political and economic, is directed toward the creation of conditions that make for lasting peace. Cooperation with our Allies through the machinery of the Far Eastern Commission is an essential part of that policy.

U.S. Asks For Resumption of Austrian Treaty Negotiations

[Released to the press February 2]

The Secretary of State has requested the Secretariat of the Council of Foreign Ministers to transmit to the Government of the United Kingdom, the Union of Soviet Socialist Republics, and France the following proposal concerning the resumption of the discussions by the Deputies of the Council of Foreign Ministers on the Austrian treaty:

"The Secretary of State refers to the agreement of the Deputies for the Austrian Treaty in their sixty-third meeting on December 17, 1947, that the United States Deputy, as next Chairman, would indicate within five days of the receipt of the Soviet proposals on German assets in Austria the date of the next meeting of the Deputies which if possible would be held no later than February 1, 1948. The United States Deputy considered that this agreement would permit the various governments sufficient time prior to the convening of the Deputies to study the Soviet proposals which, as he understood, would be transmitted through the Secretariat of the Council of Foreign Ministers

early in January. The Soviet proposals were received by the United States Government on January 26. The Secretary of State believes that it would be difficult to give proper consideration to the Soviet proposals by the date set by the Deputies in their meeting of December 17. The Secretary of State therefore proposes, with the concurrence of the other governments, that the Deputies meet in London on or about February 20.

"If the other governments see no objection, the United States is prepared to discuss at this meeting the French and Soviet proposals on German assets in Austria, as well as any other proposal designed to solve this problem and the other unagreed Articles in the draft Austrian Treaty."

The Secretary of State has designated Samuel Reber, Deputy Director for European Affairs, Department of State, as Deputy for the Austrian Treaty at the forthcoming meeting.

¹ *Activities of the Far Eastern Commission, Report by the Secretary General, Feb. 26, 1946-July 10, 1947 (Department of State publication 2888).*

United States Accepts Membership in South Pacific Commission

[Released to the press January 28]

The Secretary of State announced that the President signed on January 28 the Joint Resolution (H. J. Res. 232)¹ authorizing United States membership and participation in the South Pacific Commission. The President also signed the instrument accepting, on behalf of the United States Government, the agreement establishing the South Pacific Commission.² Accordingly, the Secretary is taking steps to deposit the instrument of acceptance with the Australian Government, which will in turn notify the other signatory governments of this action.

Purpose. The purpose of the Commission is to provide the means by which governments which administer non-self-governing territories in the South Pacific may cooperate with one another to promote the economic and social advancement of the peoples of these territories. This purpose is in accord with the obligations assumed by the members of the United Nations under chapter XI of the Charter with respect to the non-self-governing territories which they administer, namely, to promote the economic, social, and educational advancement of the inhabitants of these territories, to promote constructive measures of development, to encourage research, and to cooperate with one another with a view to the practical achievement of these objectives. The peoples of the non-self-governing territories in the South Pacific, including those administered by the United States, have common economic and social problems, many of which can be solved more expeditiously and economically through joint research and action by the governments administering them.

The South Pacific Commission, assisted by its auxiliary bodies, will provide machinery for such joint research and action. It will serve primarily as an advisory and consultative body to the participating governments, but it also may, if all the governments agree, take executive action.

Membership. The six member governments of the South Pacific Commission, as envisaged by the agreement signed *ad referendum* at the South Seas conference in Canberra on February 6, 1947, are Australia, France, the Netherlands, New Zealand, the United Kingdom, and the United States. The agreement will enter into force when accepted

by all the member governments. The Governments of Australia, New Zealand, and the United Kingdom have already accepted the agreement, and it is expected that the Governments of France and the Netherlands will take similar action in the near future.

Territorial Scope. The territorial scope of the South Pacific Commission comprises some 15 territories, having a total population of approximately 2,000,000, located south of the Equator and east from and including Netherlands New Guinea. The United States now administers American Samoa (17,000 population) and a number of other islands in this area.

Structure of the Commission. The South Pacific Commission will consist of commissioners appointed by each participating government. The Commission will meet at least twice each year. The central secretariat of the Commission will be directed by a secretary general appointed by the Commission, and will be located temporarily in Sydney, Australia, until the Commission decides upon a permanent location within the territorial scope of the Commission.

Auxiliary Bodies. The agreement provides for two auxiliary bodies to the Commission: the South Pacific conference and the South Pacific Research Council.

The South Pacific conference will be composed of delegates from each of the territories in the South Pacific within the scope of the Commission. These delegates will be selected in such a manner as to insure the greatest possible measure of representation of the local inhabitants and in accord with the constitutional processes of the respective territories. The conference will furnish a regular means of consultation among the governments, the Commission, and the peoples of the region. The first session of the conference will be held within two years and thereafter at intervals not exceeding every three years.

The Research Council, members of which will be appointed by the Commission, will sponsor and promote scientific inquiry into ways of improving economic and social conditions in the South Pacific. Examples of the type of research projects to which the Commission and the Research Council will give early consideration are contained in the appendix to the agreement.

Relationship With Other International Bodies. The agreement provides that, while the South Pacific Commission has no organic connection with

¹ Public Law 403, 80th Cong., 2d sess., approved Jan. 28, 1948.

² For article analyzing the agreement, see BULLETIN of Mar. 16, 1947, p. 459.

the United Nations, it shall cooperate as fully as possible with the United Nations and with appropriate specialized agencies on matters of mutual concern within the competence of the Commission. Provision is also made for the governments to consult with the United Nations and the specialized agencies with a view to defining the relationship which may in the future exist and in order to insure effective cooperation between the Commission and these international bodies.

Financial Arrangements. According to the apportionment of the South Pacific Commission's expenses, as set forth in article XIV of the agreement, the United States share is 12½ percent. The proportionate share of other countries is as follows: Australia, 30 percent; France, 12½ percent; the Netherlands, 15 percent; New Zealand, 15 percent; and the United Kingdom, 15 percent. This apportionment is based on the national income of the respective member governments, their prospective national interest in and benefit from the Commission, and their administrative responsibilities in the South Pacific. The agreement provides that, pending adoption by the Commission of its first budget, the governments will contribute their respective shares of £40,000 sterling, or \$160,000, to finance the expenses of the Commission. The United States share would be about \$20,000.

Preliminary Arrangements. Australia and New Zealand, acting pursuant to the agreement, have taken preliminary steps toward the early establishment of the Commission. Through the initiative of these governments, an interim organization of the Commission has been established at Sydney and provided with office facilities and a small staff. A preparatory conference of representatives of the six governments was held at Sydney, November 26-28, 1947, in order to pave the way for the first meeting of the Commission.

Special Session of International Wheat Council

[Released to the press January 28]

A special session of the International Wheat Council opened at Washington, D.C., on January 28 and is expected to last approximately two weeks. The purpose of this session is to continue negotiations for an international wheat agreement which were begun at the International Wheat Conference at London last March and April.

The President has recently approved a revision in the composition of the United States Delegation to the International Wheat Council. Norris E. Dodd, Under Secretary of Agriculture, has been designated to fill a vacancy on the Delegation left by Carl C. Farrington, who has resigned from

the Department of Agriculture to accept a position in private industry. Mr. Dodd is serving as chairman of the Delegation. Other Delegates are Edward G. Cale, Associate Chief, Division of International Resources, Department of State; Leroy K. Smith, Director, Grain Branch, Production and Marketing Administration, Department of Agriculture; and Leslie A. Wheeler, Director, Office of Foreign Agricultural Relations, Department of Agriculture.

The International Wheat Council, composed of major wheat importing and exporting countries, was established in 1942 to administer certain provisions of an interim international wheat agreement and to facilitate the negotiation of a broader agreement following the termination of the war.

THE FOREIGN SERVICE

U.S. and Nepal To Exchange Ministers

[Released to the press February 3]

The United States and the Kingdom of Nepal will shortly enter into formal diplomatic relations by an exchange of Ministers. This important development in United States-Nepalese relations follows the agreement of friendship and commerce entered into by the United States and Nepal on April 25, 1947. The agreement was negotiated in Kathmandu, the capital of Nepal, by a special United States diplomatic mission headed by Joseph C. Satterthwaite. During the visit of this special mission, preliminary arrangements were made for the exchange of diplomatic and consular representatives.

The Government of the Kingdom of Nepal has now designated Commanding General Sir Kaiser Shum Shere Jung Bahadur Rana to be the first Nepalese Minister to the United States. General Kaiser, at present the Nepalese Ambassador to the Court of St. James, will represent his country concurrently in Washington and London with residence in the latter capital. The Nepalese Minister-Designate plans to come to the United States in February to present his credentials to President Truman.

THE DEPARTMENT

Appointment of Officers

Durward V. Sandifer as Deputy Director of the Office of United Nations Affairs, effective February 3, 1948.

THE RECORD OF THE WEEK

Violations of Treaty of Peace by Rumania

LETTER FROM THE UNITED STATES MINISTER TO RUMANIA TO THE RUMANIAN MINISTRY OF FOREIGN AFFAIRS

[Released to the press February 4]

Rudolf E. Schoenfeld, United States Minister to Rumania, transmitted the following note to the Rumanian Ministry of Foreign Affairs on Monday, February 2, 1948. Copies of this note, which sets forth violations of the treaty of peace by Rumania, have been communicated to the British and Soviet Chiefs of Mission in Bucharest with a request for their respective comments

The United States, pursuant to the principles for which it stands, in consequence of its undertakings at Yalta with the Union of Soviet Socialist Republics and the United Kingdom, and by virtue of its joint responsibilities with these Powers as a member of the Rumanian Armistice Commission, has striven constantly since the withdrawal of Rumania from the war against the Allies to assist the Rumanian people in obtaining a broadly representative and responsive Government which would secure for them their basic rights and fundamental freedoms.

The United States together with the Union of Soviet Socialist Republics and United Kingdom agreed at the Moscow Conference of Foreign Ministers in December 1945 to assist in a broadening of the Rumanian Government and in obtaining guarantees of such civil liberties. In January 1946, in compliance with the Moscow Agreement, representatives of the National Peasant and National Liberal Parties were included in the Rumanian Government. The Rumanian Council of Ministers thereupon made a solemn written declaration that free general elections would be held in the shortest possible time, on the basis of universal suffrage and secret ballot, in which all democratic and anti-Fascist parties would have a right to participate and to present candidates. Likewise, the declaration of the Rumanian Government pledged that freedom of the press, speech, religion and assembly would be assured. In an oral amplification of this declaration, the President of the Rumanian Council of Ministers, Petru Groza, made explicit the application of these assurances to all the parties represented in the reorganized Government, thereby acknowledging the National Peasant Party headed by Mr. Iuliu Maniu, the National Liberal Party led by Mr. Constantin Bratianu, and the

Social Democratic Party under the direction of Mr. Constantin Petrescu as democratic and anti-Fascist.

The Rumanian Premier also gave explicit assurances that these parties would be entitled (1) to participate in the elections and to put forward candidates, (2) to have representatives present for the examination of the balloting procedure and the counting of the ballots, (3) to be accorded equitable broadcasting facilities for the presentation of their political views, (4) to have equal opportunity to print and distribute their own newspapers and political publications and to obtain newsprint on a fair and equitable basis, (5) to organize associations, to hold meetings and to be allowed premises for this purpose, and (6) to be consulted by the Council of Ministers in order to reach agreement concerning the assured freedoms of press and speech as well as on the drafting of an electoral law and on the conduct of the elections.

However, notwithstanding the categorical nature of these international commitments the Rumanian Government undertook virtually at once to subvert them, and throughout 1946 steadily violated their spirit and letter. All manner of chicanery, and extreme physical violence was employed by or with the consent of the Rumanian Government to reduce the legitimate political activity of any elements not subservient to the controlling minority. Every one of the assurances given was either ignored or sabotaged. The representatives of the Peasant and Liberal Parties were effectively excluded from decisions of the Government and from any real voice in the preparation of the elections. Broadcasting facilities were wholly denied to all but the minority Government bloc. Through the inequitable distribution of newsprint, the denial of freedom to print, publish and distribute and by various other artifices and official censorship, the legitimate opposition press was relegated to a point of virtual extinction. Party meetings of the opposition were prevented by violence. Government officials, employing compulsion and forgery, wrested the control of the Social Democratic Party from the majority of its members.

During nine months which preceded the general elections, numerous eligible candidates were disbarred from participation and large sections of the

rightful electorate were disenfranchised. The balloting in the election was accompanied by intimidation, by preventing voters from reaching the polls, by multiple voting, by denying legitimate opposition representatives their assured right to be present at the counting, and by distortion of the final returns.

The concern of the United States Government over violations of the explicit assurances of civil and political liberties, which had been given by the Rumanian Government in an international commitment, was called to that Government's attention in notes of May 27, June 14, October 28, and November 15, 1946. To these representations, the Rumanian Government failed to make satisfactory reply. Following the elections on November 19, 1946, the United States Government declared that, in view of the evident abuses which had effectively denied the franchise to important sections of the Rumanian population, it could not regard those elections as a compliance by the Rumanian Government with the assurances it gave to the Governments of the United States, the United Kingdom, and the Union of Soviet Socialist Republics in implementation of the Moscow Decision.

In February 1947, the Rumanian Government signed a Treaty of Peace with representatives of the Allied and Associated Powers which, under Article 3, obligated Rumania to take all measures necessary to secure to all persons under Rumanian jurisdiction the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.¹

Despite this development, in the spring and summer following its signature of this Treaty, the Rumanian Government, through its police authorities, intensified its systematic and brutal campaign to eliminate all political opposition. Nation-wide manhunts were conducted on a mass scale resulting in the arbitrary arrest and incarceration of thousands of opposition and non-party persons.

The United States protested, in a note of June 24, 1947, these actions, taken by the Rumanian Government in anticipation of the coming-into-force of the Treaty, which were prejudicial to the fulfillment of the Treaty provisions and which effectively nullified the Rumanian Government's execution of its undertakings with respect thereto. Again, the response of the Rumanian Government was evasive of its responsibilities and the campaign did not cease. On the contrary, additional arbitrary actions were perpetrated in the guise of measures of public security, including, in July, the arrest of Mr. Iuliu Maniu and other National Peasant leaders.

The United States renewed its representations on August 5, and on August 6 issued a public statement, referring particularly to Mr. Maniu, whose

devotion to democratic ideals over a period of many years and whose struggle for civil liberties in Rumania are well known.

Reports reaching the United States Government over a period of several months demonstrated convincingly that the political prisoners apprehended as a result of the mass arrests in Rumania were being subjected by the Rumanian authorities not only to physical conditions of starvation and disease but in some instances to methods designed to extract "confessions" in anticipation of forthcoming trials. The United States Government in a public statement on August 15, 1947² took note of this inhuman treatment of Rumanian political prisoners and the methods employed to predetermine their conviction—methods which had already been clearly revealed by the Rumanian mass trials of allegedly subversive organizations which had taken place in November 1946.

On September 15, 1947 the Treaty of Peace with Rumania came into force with its consequent obligation upon the Rumanian Government to secure the specified rights and freedoms to all people under its jurisdiction. Nevertheless, in October and November 1947, the Rumanian authorities tried, convicted and sentenced for treason Mr. Iuliu Maniu and other members of the National Peasant Party of Rumania. The transparent political motivation of this "judicial process" was manifest. The recent threats by the Rumanian authorities against the National Liberal and Independent Socialist Parties, which have been reduced to impotence, give further evidence of the Rumanian Government's intent to wipe out the last vestiges of democratic opposition in Rumania.

By its actions over a period of almost three years since March 1945, the Rumanian Government placed the legitimate and patriotic opposition elements in Rumania in a position of seeming to constitute a clandestine, subversive movement. Activities on their part to bring about, through constitutional means, a democratic alteration in the Government of Rumania so that it might be broadly representative of the Rumanian people were construed as subversive and treasonable. Associations or communications about Rumanian conditions with two of the Powers which had rights and responsibilities in Rumania by virtue of the Yalta, Potsdam, and Moscow Agreements, the Rumanian Armistice and the Rumanian Peace treaty, were made to appear as conspiracy.

The trial of Mr. Maniu and his co-defendants, which was concluded on November 11, 1947, itself was specifically prejudiced in the following respects which, by generally recognized standards of civilized procedure, precluded the free exercise of justice:

¹ TIAS 1649 (Department of State publication 2960).

² BULLETIN of Aug. 17, 1947, p. 329.

1) The possibility of an impartial trial was excluded by the appointment of a presiding judge known to be thoroughly compromised by improper acts as a military judge during the recent war and lacking in judicial integrity.

2) The defendants were effectively deprived of their right to be represented by counsel of their own choice which, except for intimidation, might have been available.

3) defense of the accused by the appointed counsel was inadequate, despite an apparently spirited summation in the single instance of Maniu.

4) Excessive restrictions were placed upon the preparation of the defense, on the testimony of the defendants and on the interrogation of state witnesses by or for the defendants.

5) A violent campaign of excitation against the defendants was conducted before and during the trial through the officially controlled press, labor, professional and Government organizations,

which not only had the effect of intimidating witnesses and influencing the judges but which also by its scope and nature revealed that it was inspired, directed and assisted by the Rumanian Government for the evident purpose of supporting a pre-arranged verdict.

Aside from the lack of validity of a trial carried out under such conditions, the prosecution failed to substantiate the charges of treasonable activities, upon which the defendants were found guilty, by evidence other than that of highly questionable "confessions" which had been drawn from certain defendants following their arrest.

The United States Government considers it necessary to state that in its view the actions of the Rumanian Government recited in this note make it clear that there have not existed, and do not now exist in Rumania those human rights and fundamental freedoms which the Rumanian Government is obligated by the Treaty of Peace to secure to all persons under its jurisdiction.

Visits of U. S. Naval Vessels to Italian Ports

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND THE U.S.S.R.

[Released to the press February 2]

January 28, 1948.

SIR:

In recent months the Italian press has repeatedly reported the presence of naval vessels of the United States of America in the ports of Taranto, Leghorn, Genoa, Spezia, Venice, and Naples. In January 1948 reports also appeared in the American and Italian press that the military authorities of the U.S.A. dispatched on these vessels sizable units of American Marines. These reports were later confirmed by statements of official representatives of the Government and Military Command of the U.S.A., according to which units of American Marines were dispatched on naval vessels of the U.S.A. in the Mediterranean Sea allegedly for the purpose of conducting training exercises.

According to information at the disposal of the Soviet Government, the reports mentioned by the foreign press concerning the presence of naval vessels of the U.S.A. in Italian ports and in the territorial waters of Italy correspond to the facts.

Whereas, under Paragraph 1, Article 73, of the Treaty of Peace with Italy, all armed forces of

the Allied and Associated Powers should have been withdrawn from Italy by December 15, 1947, the continued presence of the naval forces of the U.S.A. in Italian ports and in the territorial waters of Italy after this date constitutes a violation of the reference provision of the Treaty of Peace and should not take place. The Soviet Government expects that the Government of the U.S.A. will adopt measures without delay toward the elimination of the reference violation of the Treaty of Peace.

The Soviet Government is forwarding simultaneously to the French Government a copy of the present note with the request that it bring it to the attention of the Allied and Associated Powers which signed the Treaty of Peace with Italy.

A. PANYUSHKIN

Ambassador of the USSR to the USA

The Secretary of State,
GEORGE C. MARSHALL,
Department of State,
Washington.

Department of State Bulletin

January 30, 1948.

EXCELLENCY:

I have the honor to refer to Your Excellency's note No. 14 of January 28, 1948 with reference to the occasional visits to Italian ports of vessels of the United States Navy and of the presence on board of units of United States Marines. You have stated that the presence of United States naval forces in Italian ports and in territorial waters of Italy after December 15, 1947 constitutes a violation of Paragraph 1, Article 73 of the Treaty of Peace with Italy and that the Soviet Government expects the Government of the United States to adopt measures without delay to eliminate this alleged violation of the Treaty of Peace.

I must request you to inform your Government the visits of United States naval vessels to Italian ports and their presence in Italian territorial waters have been arranged in strict accord with the comity of nations in which it is customary for sovereign states to grant the privilege of visits to naval vessels and personnel of friendly foreign powers. On all occasions when United States naval vessels have visited Italian ports the Italian Government has been requested in advance to grant the necessary permission and such permission has in each case been granted prior to the entrance of the vessels into territorial waters of Italy. The larger of these vessels carry United States Marines as a part of their normal ship's complement. Such visits have been an indication of the sincere good will and friendship which exists between the peoples and Governments of the United States and Italy and can in no way be correctly construed as being in violation of the stated provision of the Treaty which has reference to the withdrawal of armed forces.

Accordingly, the Government of the United States must reject as without foundation the protest of the Soviet Government in this matter.

For the Secretary of State:

ROBERT A. LOVETT

His Excellency

ALEXANDER SEMENOVICH PANYUSHKIN,
Ambassador of the
Union of Soviet Socialist Republics.

Treaty of Friendship, Commerce, and Navigation With Italy Signed

[Released to the press February 2]

A treaty of friendship, commerce, and navigation between the United States and Italy was signed on February 2 in Rome. Ambassador Dunn signed for this Government and Count Carlo Sforza, Minister of Foreign Affairs, for the Italian Republic.

February 15, 1948

This is the first comprehensive commercial treaty concluded by the United States with a European country since 1934, and the first treaty of its type signed by Italy since the conclusion of peace. It replaces the treaty of commerce and navigation concluded with Italy in 1871, following the unification of that country. The former treaty was terminated December 15, 1937, by mutual agreement, but efforts to work out a more modern and comprehensive treaty at that time proved unsuccessful.

The treaty, which is based in general upon the principle of mutuality, establishes standards to govern relations between the two countries in many fields of activity. It includes articles relating to the status and activities of persons and corporations, protection of persons and property, landholding, freedom of information, treatment of vessels, commercial principles comparable to those in the proposed charter for an International Trade Organization, and provisions concerning such matters as exchange control, transit, industrial property, et cetera.

Preliminary conversations on the treaty were held in the Department with the Italian Financial and Economic Delegation, which was headed by Mr. Lombardo, in May and June of 1947, while formal negotiations were opened in Rome on September 16.

For the text of the treaty, see Department of State press release 77 of February 2, 1948.

Indictment of Dimiter Gitchev in Bulgaria

[Released to the press February 6]

In response to press inquiry concerning reports from Sofia in respect to forthcoming trial of Dimiter Gitchev, the Department of State made the following comment

The Department has received reports from the American Legation at Sofia concerning the indictment, calling for the death penalty or life imprisonment which has been brought against Dimiter Gitchev, prominent Agrarian opposition leader. Mr. Gitchev has a long and impressive record as a defender of democratic principles in Bulgaria.

Viewed against the background of the present Bulgarian regime's past and current record and recent statements by Bulgarian officials, the charges against Mr. Gitchev and the preparation for his trial, resemble so closely the case of Nikola Petkov as to suggest strongly the Bulgarian Government's intention again to disregard its treaty obligations with respect to securing to its citizens the most basic human rights.

Use of Mellaha Airfield by the U.S. Air Force

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND THE U.S.S.R.

[Released to the press February 3]

January 21, 1948.

SIR:

Upon instructions of the Soviet Government I have the honor to communicate to you as follows.

In recent days reports were published in the press of Great Britain and the U.S.A. to the effect that the Government of Great Britain agreed to place at the disposal of the Government of the United States an air base at Mellaha, Tripolitania. These reports were confirmed on January 14 of this year by official representatives of the Ministry of Foreign Affairs of Great Britain and of the Department of State of the U.S.A.

The Soviet Government calls your attention to the fact that the conclusion of a separate Anglo-American agreement on the creation of a military air base of the United States in a former Italian colony under provisional British administration contradicts the peace treaty with Italy and in particular Annex XI to the treaty entitled "Joint Declaration of the Governments of the Soviet Union, the United Kingdom, the United States of America and France Concerning Italian Territorial Possessions in Africa", on the strength of which the Soviet Government can not recognize the agreement mentioned as having legal force.

Accept [etc.]

A. PANYUSHKIN

Ambassador of the USSR to the USA

The Acting Secretary of State,

Mr. ROBERT A. LOVETT

Department of State, Washington, D.C.

February 3, 1948.

EXCELLENCY:

I have the honor to refer to your Excellency's Note No. 13 of January 21, 1948 regarding the airfield at Mellaha, Tripolitania.

The Government of the United States wishes to point out that the continuation of the arrangement with regard to the use of Mellaha Airfield by the United States Air Force for communications purposes extends only for the period during which the present administration remains responsible for the territory. In the circumstances, the Government

¹ BULLETIN of Apr. 7, 1946, p. 587.

of the United States does not consider that such an arrangement is in any way inconsistent with the provisions of Annex XI or any provision of the Treaty of Peace with Italy.

Accept [etc.]

ROBERT A. LOVETT

His Excellency

ALEXANDER SEMENOVICH PANYUSHKIN,
*Ambassador of the Union of
Soviet Socialist Republics.*

Air Agreements Signed

Air Transport Agreement With Italy

[Released to the press February 3]

The Department of State announced on February 6 the conclusion of a bilateral air-transport agreement between the United States of America and Italy which was signed in Rome on February 6, 1948, at 12 noon by duly appointed representatives of the respective Governments.

The agreement closely adheres to the so-called Bermuda principles incorporated in the agreement consummated by the United States and the United Kingdom at Bermuda on February 11, 1946,¹ and provides for the exchange of full fifth-freedom rights by designated air carriers of the two countries. It is the twenty-third formal bilateral air-transport agreement signed by the United States in accordance with the Bermuda pattern which, since its inception, has been widely accepted as the most satisfactory formula for the orderly development of international civil aviation based upon reciprocal rights and the broadest possible freedom consistent with national security and sound economic principles.

The agreement further signifies the desire of Italy to take its place in the ranks of countries which recognize the importance of the fullest development of international civil aviation and to contribute, through its international airlines, to the creation and preservation of friendship and understanding among the nations and peoples of the world.

The text of the agreement will be released in full at a later date.

Department of State Bulletin

Air Transit Agreement With Portugal

[Released to the press February 31]

An agreement was concluded on February 2 in Lisbon as a result of negotiations between the Portuguese Minister for Foreign Affairs, Dr. José Caeiro da Mata, and United States Ambassador John C. Wiley on the continuation for a limited period of time of the facilities for transit of American military aircraft through Lagens Airfield in the Azores. The new agreement grants substantially the same facilities as are contained in the agreement of May 30, 1946.¹

Decision That Horses From Hungary Remain Property of the United States Army

[Released to the press January 31]

The Department of State released on January 31 the text of a letter to Senator Chan Gurney, Chairman of the Armed Services Committee, concerning horses claimed by the Hungarian Government. The Department decided several days ago that, for the reasons set forth in the letter, these horses should not be returned to Hungary, but retained by the Army as property of the United States.

Approximately 120 horses, claimed by the Hungarian Government, were taken in Germany during the closing days of the war and subsequently brought to the United States by the Army.

The text of the letter to Senator Gurney follows:

Status of Release of Prisoners of War From French, British, and Soviet Governments

[Released to the press January 30]

The International Committee of the Red Cross, with headquarters at Geneva, Switzerland, addressed an appeal on November 28, 1947, to all governments and Red Cross societies, urging the repatriation of all prisoners of war. The following is quoted from the reply sent to the Committee by the Department of State on behalf of the United States Government:

"This Government favors the early repatriation of all enemy prisoners of war wherever they may be held and has on all appropriate occasions urged the return of these men to their homes at the earliest practicable time. The United States Government for its part has completed the repatriation of enemy prisoners of war under the direct control of the American authorities.

"With respect to German prisoners of war captured by American forces and subsequently trans-

DEAR SENATOR GURNEY:

I refer to your letter of January 14, 1948 requesting that the Committee on Armed Services be informed of further steps which the Department of State contemplates taking with respect to the horses claimed by the Hungarian Government.

The Department of State and the Department of the Army have agreed that the horses in question will not be returned to Hungary but will be retained by the Army as property of the United States. The two Departments concur in the conclusion of the Committee that this Government has a legal right to retain the horses. The desirability of so doing for reasons of national interest has been brought out by new evidence adduced at the hearings of your Subcommittee. This result has adequate basis in Article 32 of the Treaty of Peace with Hungary, by which Hungary waived all claims against the United States arising out of the purported exercise of belligerent rights.

I am glad that the Department of State is able to reach a conclusion on this subject compatible with the views of the Committee on Armed Services, and I wish to state that the Department appreciates the courtesy with which the hearings were conducted by the Chairman of the Subcommittee, Senator Morse.

Sincerely yours,

ROBERT A. LOVETT
Under Secretary of State

The Department of the Army has written a similar letter to Senator Gurney indicating its agreement with this decision.

ferred to other Governments, namely, France, Belgium, and Luxembourg, this Government, as the Committee is aware, has assumed an active and continuing interest in their repatriation. As a result of an approach made by this Government early in December 1946 to the three Governments concerned, all such prisoners of war transferred to Luxembourg and Belgium have been released, and in France substantial numbers have been released and repatriated under the agreed program which has been in operation since last March. As the Committee was accorded special status in supervising the repatriation program in the latter country, I know that you are fully aware of the progress which has been made, as well as the practical difficulties which have been encountered in implementing the program.

"It is my sincere hope that all Governments still

¹ Not printed.

holding prisoners of war will find it possible to act favorably on the Committee's humanitarian appeal."¹

The agreement with the French Government referred to above provided for the release of these men by two means: (1) repatriation at the rate of 20,000 a month and (2) release in France as free workers of those voluntarily choosing to remain. The program initiated by this agreement was made applicable to all German prisoners of war in French custody, including those captured by French forces as well as those transferred by this Government. Information just received in the Department from official French sources indicates that the number of German prisoners of war in French custody, as of January 1, has been reduced to 301,440. Between March 14 and December 31, 1947, a total of 278,006 were released from prisoner-of-war status. Of the total number released during this period 181,645 were repatriated while 96,361 were transferred to free-worker status. In this latter category there are an additional 43,700 now being processed for release. Some reduction in the total number held has also occurred as a result of escapes. The minimum rate of repatriation has been increased to 25,000 per month.

The Department of State, through the American Embassy at Paris, is maintaining an active interest in this matter and will continue to do so

until the program has been completed. The Department of State, however, cannot undertake to forward to the French authorities inquiries concerning the status and expected date of release of individual prisoners of war. Inquiries of this nature should be addressed by interested persons in this country to the Direction Générale des Prisonniers de Guerre de l'Axe, 51 Boulevard de la Tour Maubourg, Paris VII, France.

Individuals interested in obtaining information concerning prisoners of war held by the British authorities may address inquiries to the Controller, Prisoner of War Information Bureau, Hotel Victoria, Northumberland Avenue, London W.C. 2, England. The Department understands that British plans with respect to the release of German prisoners of war anticipate completion of the operation well before the end of this year.

The Soviet authorities have indicated that inquiries from persons in the United States concerning prisoners of war held in the Soviet Union can be accepted and acted upon only if transmitted through Red Cross channels. The American Red Cross is prepared to receive and to transmit such inquiries to the Alliance of Red Cross and Red Crescent Societies of the Soviet Union. Interested persons in this country are advised to communicate with their local chapters of the American Red Cross for further information regarding this service.

American Ambassador to Venezuela to Attend Inauguration of Venezuelan President-Elect

[Released to the press February 2]

The Government of the United States of Venezuela has invited this Government to be specially represented at the inauguration ceremonies of the President-elect of Venezuela, Señor Don Rómulo Gallegos, which will be held at Caracas February 13 to 18. The inauguration will be on February 15.

The President has designated Walter J. Donnelly, the American Ambassador to Venezuela, as his personal representative with the rank of special Ambassador to the inauguration of President-elect Gallegos. Ambassador Donnelly will be accompanied, as members of the United States Delegation, by Archibald MacLeish with the rank of Minister; Lt. Gen. Willis D. Crittenger, Commanding General of the Caribbean Defense Command; Vice Adm. Daniel E. Barbey, Commandant, Tenth U.S. Naval District; John Willard Carriagan, First Secretary of the American Embassy at

Caracas; Captain Henry J. Armstrong, Jr., Naval Attaché; and Lt. Col. Frank P. Bender, Military Air Attaché, American Embassy, Caracas.

The United States Government will send the aircraft carrier the U.S.S. *Saipan* and the destroyer the U.S.S. *Witek*.

The Department of State has learned with pleasure that Jesús T. Piñero, Governor of Puerto Rico, has been especially invited to the inauguration by the Government of Venezuela and will take part in the ceremonies.

Luxembourg and Denmark: Time Extended for Renewing Trade-Mark Registrations

The extension until June 30, 1948, of time for renewing trade-mark registrations with respect to Luxembourg was granted by the President in Proclamation 2766 (13 *Federal Register* 319) on January 21, 1948, and to Denmark by Proclamation 2768 (13 *Federal Register* 431) on January 30, 1948.

¹ Signed by Robert A. Lovett on behalf of the United States Government.

American Position in Iran

REMARKS BY GEORGE V. ALLEN¹

American Ambassador to Iran

I am particularly appreciative of the courtesy extended to me this evening by the distinguished members of the Iranian press. A free press is indispensable for the maintenance of democracy, since every totalitarian regime that I know anything about began by suppressing the opposition.

I had hoped to be able in this last meeting with you to confine my remarks to the subject of your great profession and to the field of cultural and educational exchange in which I shall be engaged upon my return to Washington. However the information carried during the past two days in the Iranian press concerning a communication which the Iranian Government has received alleging improper activities on the part of American advisers in Iran makes it impossible for me to remain silent on this subject.

This communication as reported in the press seems an obvious attempt to exert influence on a matter now before the Iranian Majlis. Even if the allegations in the note were true, its delivery at this moment would constitute improper interference in the internal affairs of Iran and therefore be contrary to the dignity and independence of Iran as an equal member of the United Nations. But what makes the communication more objectionable in my view is that it includes not only misstatements of fact from start to finish but closes with an implied threat.

First and foremost, I wish to make entirely clear once more the attitude of the American Government with regard to American advisers here. We have frequently informed the Iranian Government during the past two years that American advisers in Iran will not remain here one minute longer than the Iranian Government feels they are able to perform a useful function in assisting Iran. The Iranian Government will experience no difficulty whatever in terminating the services of every one of the American advisers whenever they are no longer desired. The contracts providing for the two American military missions here are each cancelable on one month's notice by either party. The decision rests entirely in the hands of Iran.

I should also like to make our position unmistakably clear with regard to the proposed purchase of military supplies from the United States. The United States has no desire whatever to influence Iran concerning the manner in which it will spend its available funds. The funds are yours, and you must determine how you wish to allot them—whether for military supplies, farm machinery, schoolbooks, or anything else you need.

We are interested in two things. In the first place, we hope that Iran will spend what funds it has to the best possible advantage for Iran itself, because we are anxious for Iran to become strong and to remain independent. Our second and more important interest is that Iran should remain entirely free to make its own choice in this matter, unhampered by threats and menaces.

I recognize fully that an entirely honest division of opinion may exist among Iranians both as regards what military supplies you need and whether you desire American advisers. Whatever your decision may be, it will not affect in any way the friendly relations between Iran and the United States.

The communication which your Government has just received disturbs the calm atmosphere in which you will need to consider these important questions. I am confident that no self-respecting and patriotic Iranian will be deterred by this communication from doing his duty as he considers best. The allegations in the note are so clearly false that they do not require consideration in detail. I would merely ask: where are the plans for an American airport at Qum, where are the American storage tanks in southern Iran, the barracks being prepared for American troops, or any other of the things alleged in the note?

I am reminded in this connection that history repeats itself. There is considerable essential similarity between the present communication which your Government has received and one which was delivered to you in 1912 when Morgan Shuster was exerting every effort to assist Iran to become strong and independent of foreign domination. Fortunately, however, the world situation is vastly different today from what it was in 1912. Iran and all other independent countries of the world today are bound together in a world organization based on equality and respect for their sovereign independence. The entire structure of the United Nations is built on the principle that no nation shall any longer have to stand alone as Iran did when it received the 1912 note.

I regret sincerely the injection of foreign interference in the question now before the Majlis, and I hope the deputies will consider the matter with appropriate calmness and dignity. The only important consideration is that the decision, whatever it may be, should be a free Iranian decision.

¹ Delivered before the Tehran Press Club in Tehran on Feb. 4 and released to the press in Washington on Feb. 5, 1948.

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Contributors

James P. Hendrick, author of the article on an international bill of human rights, is Acting Associate Chief of the Division of International Organization Affairs, Office of United Nations Affairs, Department of State. He has served as adviser to Mrs. Franklin D. Roosevelt, United States Member of the Commission on Human Rights, at all sessions of the Commission, and of its Drafting Committee.